

28 July 2021

Dear Panel Member,

You are kindly requested to attend the **Independent Advisory Planning Assessment Panel Meeting** of Wingecarribee Shire Council to be held in **Nattai Room, Civic Centre, Elizabeth Street, Moss Vale** and remotely using audio visual link and is open to members of the community via webcast on **Wednesday 4 August 2021** commencing at **3.30pm**.

Yours faithfully

Marissa Racomelara
Interim Deputy General Manager

Business

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES**
Nil
- 4. DECLARATIONS OF INTEREST 1**

- 5. DEVELOPMENT APPLICATIONS**
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- 6. PLANNING PROPOSALS**
 - 6.1 Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964, "Calwalla" Sheepwash Road, Glenquarry 42
 - 6.2 Planning Proposal to reclassify from Community to Operational Council owned land, being Lot 1 DP1246504, 7-11 Burgess Street Bundanoon 49
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- 7. MEETING CLOSURE**

Our Mission, Our Vision, Our Values

OUR MISSION

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

OUR VISION

Leadership: *'An innovative and effective organisation with strong leadership'*

People: *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

Places: *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

Environment: *'A community that values and protects the natural environment enhancing its health and diversity'*

Economy: *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

Council

Recording and Webcasting of Independent Advisory Planning Assessment Panel Meetings

This meeting is being recorded and webcast via Council's website and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others.

Please ensure that all electronic devices including mobile phones are switched to silent.

The Council has 24 Hour Video Surveillance.

ACKNOWLEDGEMENT OF COUNTRY

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.”

APOLOGIES

Nil at time of print.

DECLARATIONS OF INTEREST

101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Panel Members and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the Meeting.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

5 DEVELOPMENT APPLICATIONS

5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club - David Woods Playing Fields, Boardman Road Bowral, Lot 146 and 147 DP 1231974

Report Author: Development Assessment Planner
Authoriser: Manager Development Assessment

RECOMMENDATION

THAT the WLPP grant consent under section 4.15 of the *Environmental Planning and Assessment Act 1979* to approve Development Application 21/1527 for the construction of a new single storey clubhouse building and associated car park at Lot 146 and 147 DP 1231974, Boardman Road Bowral subject to the development consent conditions attached to this report.

Consultants:	G.E. Walker Architect Positive Traffic Engineering & Planning
Applicant:	Craig Curry
Land Owner:	Wingecarribee Shire Council
Land Zoning:	RE1 – Public Recreation
Applicants Estimated Cost of Works:	\$587,500
Notification Period:	13/04/2021 to 04/05/2021
Number of Submissions	Five (5)
Political Donations:	None Declared
Reason for referral to Panel:	Local Planning Panel Direction -Schedule 1 states: 1. 'Conflict of Interest <i>Development for which the applicant of landowner is:</i> <i>(a) The Council...</i> Application required to be determined the panel due to land being owned by Wingecarribee Shire Council.

1. Executive Summary

The application is referred to the Wingecarribee Local Planning Panel (WILPP) as required under Schedule 1 of the *Local Planning Panel Direction* as the land is owned by Wingecarribee Shire Council.

Development Application 21/1527 seeks consent to construct a single storey clubhouse for the Southern Highlands Bridge Club and associated car parking on vacant Council land directly to the west of the David Woods sporting fields clubhouse and parking area.

The proposal is recommended for approval subject to standard conditions.

2. Site Description and Locality.

Figure 1 illustrate the land's location and general layout. The site is legally described as Lot 146 and 147 DP 1231974 Boardman Road Bowral. The subject site is a large common area

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of Council land used for sporting fields and public recreation. The site is in the north-eastern edge of Bowral in the area known commonly as East Bowral. The Council has leased an area to the Bridge Club with approximate sides of 35.2 m (front south), 35.0m (side east), 35.0m (rear north) and 36.2m (side west) with an area of approximately 2,500 square metres.

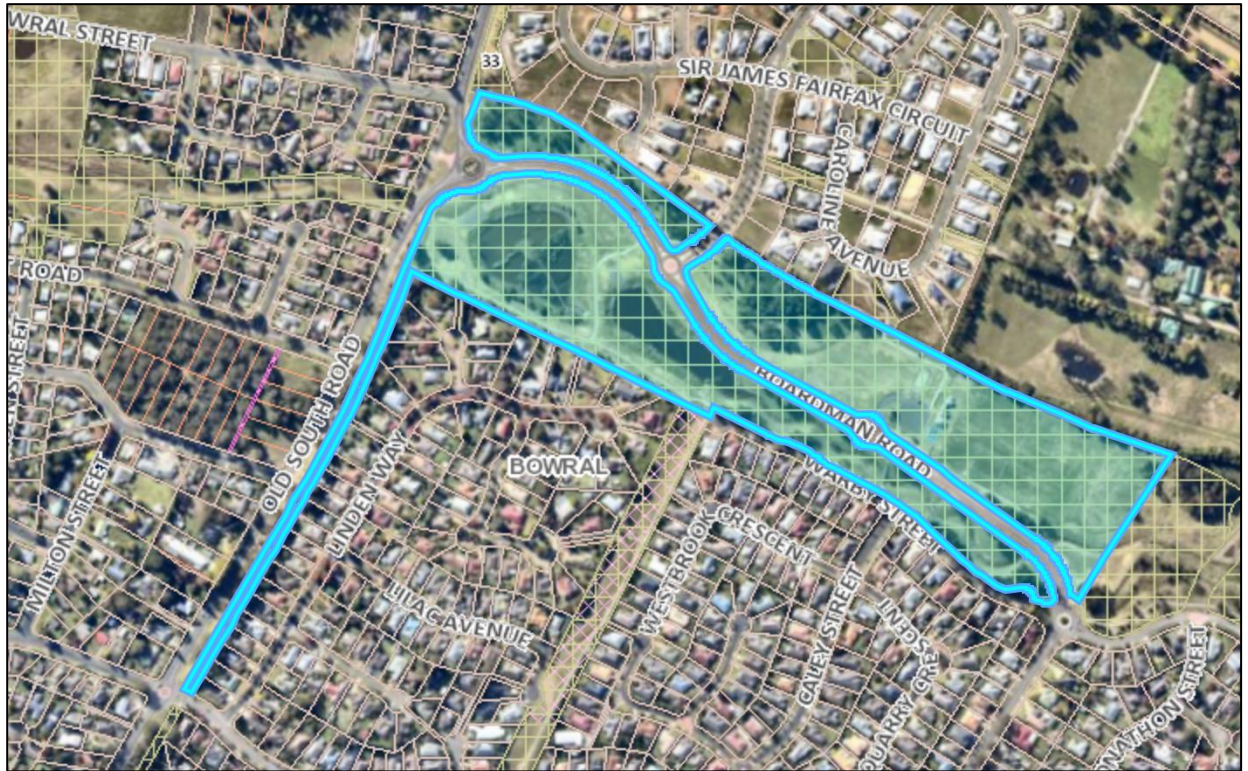


Figure 1: Location Plan with aerial overlay

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Figure 2: Location of proposed building

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Figure 3: View of proposed location for building

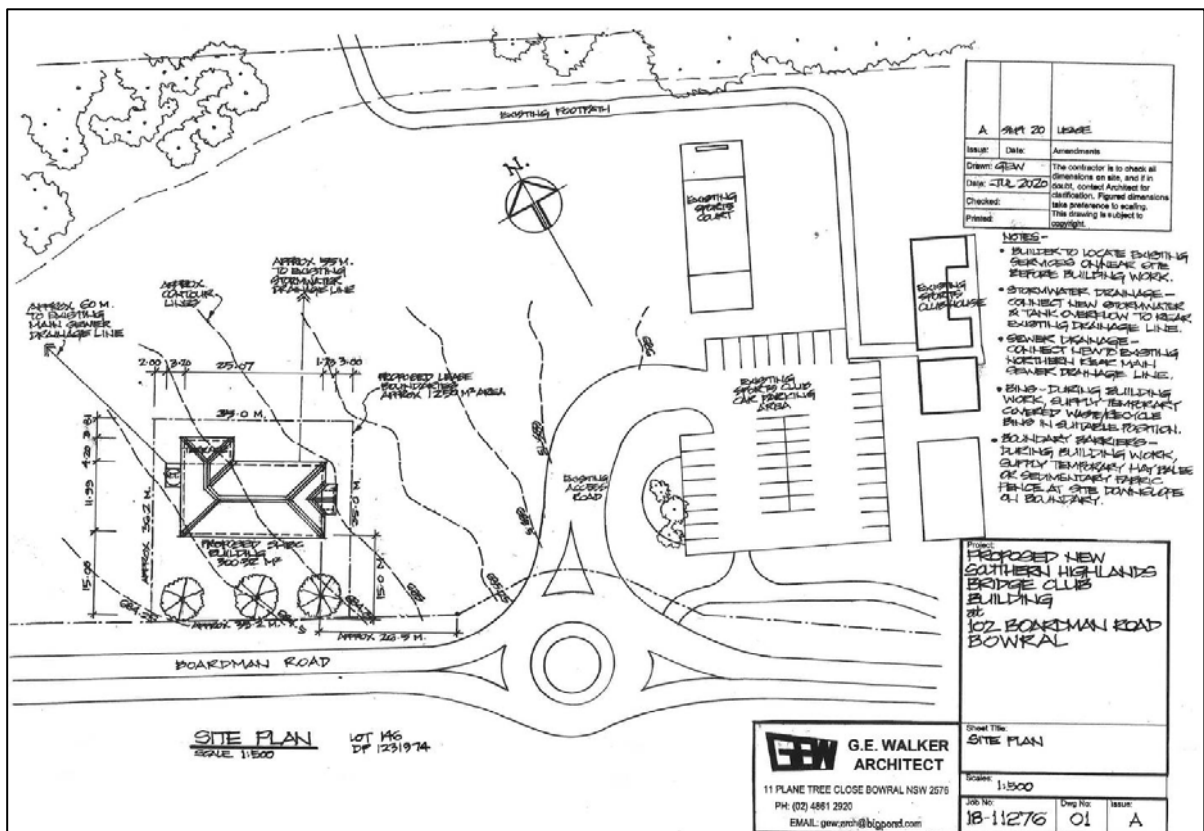


Figure 4: Proposed Site Plan

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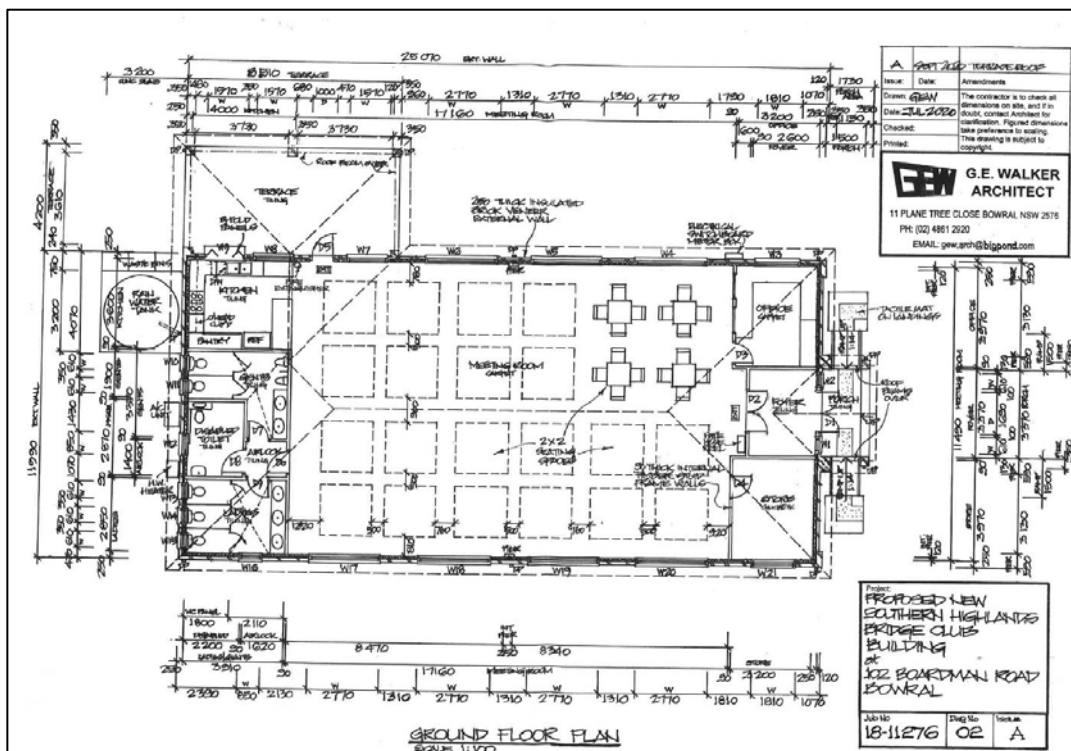


Figure 5: Ground Floor Plan of Proposed clubhouse

3. Background

The Minister for Local Government approved an application for the Southern Highlands Bridge Club to lease a portion of land adjacent to the David Woods playing fields. Following extensive consultation between Council and the club, the lease area was determined, and the location and size of the associated public carpark was agreed upon. The development application was then signed by Council as the owner of the land providing approval for the development application to be lodged.

4. Proposal

Development Application 21/1527 proposes to construct a new clubhouse building on Council owned land at Boardman Avenue Bowral for the purposes of the Southern Highlands Bridge Club. The building will be a single storey building of 301.2sqm in area located to an area of public recreation land that has been leased from Council. The proposal refers to the new building accommodating 96 people and their use of the tables and chairs in the club's main meeting room, additional rooms including entrance foyer, office, store, kitchen toilets including disabled toilets. The proposal includes the construction of a public car park adjoining the building including 32 car parking spaces including two (2) parking spaces for people with a disability. The proposal includes ramp access to the building and a condition has been included in the draft consent requiring compliance with the Australian Standard for disabled access.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Notification of Development Proposals Policy – 14 November 2018. The application was notified from 13 April 2021 to 04 May 2021. There were five (5) submissions received as a result of the notification process from:

- 22 Caroline Avenue Bowral
- 18 Warby Street Bowral
- 22 Warby Street Bowral

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- 26 Warby Street Bowral
- 32 Warby Street Bowral

The key submission issues are summarised and considered below:

Issue	Comment
<p>Our house is yet to be constructed. We do not object to the development, but the rear of the building looks into our open space area in the back garden. We request tree screening be undertaken.</p>	<p>Council's contour maps indicate that the ground level at the proposed building is RL 684 and the rear yard of 22 Caroline Avenue Bowral is RL 686. The proposed building is a single storey building and the submitters land sits 2 metres higher. The property, southern boundary, is also approximately 90 metres from the proposed Bridge Club building. On this basis the proposed building will not overlook their open space. Also, they have purchased land that adjoins a public recreation reserve and impacts on privacy should be expected and managed by the landowner.</p>
<p>The open green space was always used constantly by the community for recreational purposes. When the leasing of the land was first proposed our community fought strongly to stop it.</p>	<p>Council considered these issues when it resolved to the lease of the land to the Southern Highlands Bridge Club.</p>
<p>Is the land area larger because a car park is shown? Surely this car park would be on community land.</p>	<p>The car park sits outside the lease area for the building and is located on community land. Council's lease of the land allowed for the car park to be constructed outside the lease area.</p>
<p>The building appears to be very large to facilitate card players. Does this mean it will have the potential to be leased out for other uses.</p>	<p>The building has been designed to fit within the area leased to the club. The building may be able to be used by other community groups when not used by the bridge club in accordance with the lease arrangements.</p>
<p>The proposed area receives run-off from the Retford Park Estate, this will have to be drained and piped correctly which will involve major earthworks.</p>	<p>Council's development engineers have considered the water run-off and it is considered satisfactory.</p>
<p>Electricity, gas, sewer and water are located a great distance from the building, who will pay.</p>	<p>All services will be provided to the building at the cost of the Southern Highlands Bridge Club.</p>
<p>Open recreational areas in the Southern Highlands are diminishing rapidly with the growth of subdivisions. Surely it is wrong to build another large building for the exclusive use of 150 Bridge Club members.</p>	<p>Council considered these issues when it resolved to the lease of the land to the Southern Highlands Bridge Club and the facility will be available to other community groups when not used by the bridge club in accordance with the</p>

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	lease arrangements .
The plan specifies Southern Highlands Bridge Club car parking spaces suggesting the exclusive use by club members. The soccer club presently cannot accommodate spectators and players cars and the addition of a clubhouse bringing another 130 members to the site will only exacerbate this problem.	The current lease agreement between Council and the Bridge Club requires the Bridge Club to operate opposing times with the soccer club so that the car park becomes available for use by the soccer club.
We find the permanent consumption of Bowral's main attraction, Greenspace and the use of rate payers funds by a minority group to be grossly inappropriate.	The Council has made an agreement with the club for the lease of the land and has provided loan funds for the construction of the clubhouse.
Not only are we asked to accept a further visual blight on the landscape but Council funds are being used for the construction, funds that should be used for the whole community not a select few.	The Council has made an agreement with the club for the lease of the land and has provided loan funds for the construction of the clubhouse.
The lack of facilities for young people in this area is disgraceful. The fact the use of this premise is solely for the use of Bridge Club is completely unacceptable. They already have access to the Community Centre with ample parking. It seems the only reason they want this facility is so they don't have to pack away tables and chairs. Well, that frankly is not sufficient reason to build a horrible structure with needless carparking, funded at non-commercial rates on land that was gifted to Council for recreational use for everyone.	<p>The Council has made an agreement with the club for the lease of the land and has provided loan funds for the construction of the clubhouse.</p> <p>The lease agreement requires that the Bridge Club does not to operate at the same time as the soccer club, thereby allowing the additional car parking area to be used as an overflow parking area for soccer.</p>

6. Relevant Environmental Planning Instruments

6.1 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The catchment SEPP aims:

- (a) *'to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal.*
- (b) *'to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality.*
- (c) *'to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.'*

The application was referred to Water NSW who have provided their concurrence under Clause 11 of the *State Environmental Planning Policy (Sydney Drinking Water Catchment (2011))* for a proposed Bridge Club building and associated car park by letter dated 08 June 2021.

6.2 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether the land is contaminated and whether the land is or can be made suitable for the purpose for which development is proposed.

Based on Council's records, the site and immediately adjoining property have been historically used for recreational purposes. There is no evidence to suggest any potentially contaminating activities have taken place on or near the site. Accordingly, the site is considered suitable for the proposed recreational use and satisfies the provisions of SEPP 55.

6.3 Wingecarribee Local Environmental plan 2010 (WLEP)

The land is in Zone RE1 Public Recreation. The Land Use Table at the end of Part 2 of the LEP specifies developments for the purpose of *Community Facilities* is permitted with consent in Zone RE1.

The proposal is consistent with the specific objectives of the zone in that the proposed activity enables the land to provide a range of recreational settings and activities and compatible land uses.

7. Development Control Plans and Policies

7.1.1.1 Bowral Township Development Control Plan (DCP)

The Bowral Township DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the Bowral Township DCP are addressed in Appendix 2.

8. Environmental Assessment

The site has been inspected (18 May 2021) and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	Nil

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Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Bowral Township DCP. See table in Appendix 2 and the discussion below.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not Applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	The relevant clauses of the Regulations have been satisfied.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15 (1)(c) – The suitability of the site for the development.	The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land-use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	There were five (5) submissions made in regard to the Development Application and these have been addressed in clause 5 Notifications.
Section 4.15 (1)(e) – The public interest.	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9. Discussion of Key issues.

The proposed Development Application is for the construction of a new building for the Southern Highlands Bridge Club and associated car park and is a positive outcome for the Bridge community to provide this additional community facility and associated car park for members of the community.

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10. Conclusion

That Development Application 211527 for Lot 146 and Lot 147, DP 131974 David Woods playing Fields, Boardman Road Bowral be APPROVED to provide a new community building and associated car park for the Southern Highlands Bridge Club for the following reasons:

- The proposal is consistent with the relevant objectives contained within the Wingecarribee Local Environmental Plan 2010 and the relevant requirements of the Bowral Town Plan Development Control Plan.
- The proposal is consistent with the specific objectives of the RE1 Public Recreation zone in that the proposed activity will provide a new facility for the community within a public recreation environment and will enable other land uses that provide facilities or services to meet the day to day needs of residents.

Appendix 1: Referrals.

External Referrals.

1. Water NSW

Water NSW have provided their concurrence under Clause 11 of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* dated 08 June 2021.

2. Natural Resources Access Regulator

The Natural Resources Access Regulator has reviewed documents for the proposed development and considers that for the purposes of the *Water Management Act 2000* the proposed works are exempt from the need to obtain a controlled activity approval dated 06 May 2021.

Internal Referrals.

1. Development Engineer Referral response dated 01 June 2021

The application is considered to be satisfactory in relation to building matters subject to conditions being imposed on the notice of determination.

2. Accredited Certifier Referral response dated 1 May 2021

The application is considered to be satisfactory in relation to building matters subject to conditions being imposed on the notice of determination.

3. Environmental Health Referral response dated 04 June 2021

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The application is considered to be satisfactory in relation to environmental health matters subject to conditions being imposed on the notice of determination.

4. Traffic Engineer Referral response dated 24 June 2021

The concept design of the car park and access to Boardman Road is consistent with the discussions had between Council and the Bridge Club.

The access is well controlled by the existing roundabout which will service both the Bridge Club and the David Woods Playing Fields car park and has significant spare capacity and as such no further upgrade is warranted nor required. The access arrangements present a safe arrangement going forward.

Appendix 2: Bowral Township DCP.

The Bowral Township DCP provisions are structured into two component parts: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the Bowral Township DCP are addressed below:

DCP Compliance Table			
Part A – All Land			
Section 2 – General Objectives			
Control	Standard	Proposed	Compliance
A2.2.6 Visual Amenity	Every new development generates an impact on the visual amenity of the immediate environment which can in turn, affect the environment of the surrounding area.	The proposed Bridge Club building is single storey and set back 15metres from the street alignment. The building has an appearance of a large residential building and will blend into the landscape.	Yes
Part B – Business Zoned Land			
Section 4 – On site Car parking			
Recreational Facility	3 spaces per squash court, 3 spaces per tennis court, 3 spaces per bowling lane, 30 spaces for first bowling green plus 15 spaces for each additional bowling green, 16	301.2sqm = 8 spaces required. 32 spaces proposed.	COMPLIES This standard is considered in the absence of any other throughout the DCP. The proposal exceeds

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DCP Compliance Table			
	spaces per indoor cricket court, 1 space per 40 sq. m GFA otherwise.		the level of spaces required by this control.

ATTACHMENTS

1. DA21/1527 Draft Conditions of Consent
2. DA21/1527 Architectural Plans

**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974**

ATTACHMENT 1 DA21/1527 Draft Conditions of Consent



04 August 2021

CRAIG R CURRY
10 FORWOOD CRESCENT
BUNDANOON NSW 2578

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979

APPLICATION NO:	21/1527
APPLICANT:	CRAIG RONALD CURRY
OWNER:	WINGECARRIBEE SHIRE COUNCIL
PROPERTY DESCRIPTION:	Lot 146 DP 1231974
PROPERTY ADDRESS:	DAVID WOODS PLAYING FIELDS BOARDMAN ROAD BOWRAL NSW 2576
PROPOSED DEVELOPMENT:	Recreation Facility (Indoor) – Southern Highlands Bridge Club.
DETERMINATION:	Approval subject to conditions
CONSENT TO OPERATE FROM:	04 August 2021
CONSENT TO LAPSE ON:	04 August 2026

Rights of Appeal

Pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979*, an applicant for development consent who is dissatisfied with the determination of the application by Council authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 12 months after the date the decision appealed against is notified.

Review of Determination

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.

Ross Jauncey
Development Assessment Planner

04 August 2021
Date of Determination

**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974**



ATTACHMENT 1 DA21/1527 Draft Conditions of Consent

SCHEDULE 1 CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATION CONDITIONS

1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of Recreation Facility (Indoor) – Southern Highlands Bridge Club.

Reason: *To confirm the use of the approved development.*

2. Development in Accordance with Plans and Documents

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Site Plan	Job No: 18-11276, Dwg No: 01 Issue A	G E Walker Architect	September 20
Ground Floor Plan	Job No: 18-11276, Dwg No: 02 Issue A	G E Walker Architect	September 20
Elevations Section Plan	Job No: 18-11276, Dwg No: 03 Issue A	G E Walker Architect	September 20
Elevations	Job No: 18-11276, Dwg No: 04 Issue A	G E Walker Architect	September 20
Site Plan Car Parking Area	Job No: 18-11276, Dwg No: 05 Issue A	G E Walker Architect	September 20
Landscaping Plan	Not Referenced	Not Referenced	18.10.2020
General Notes	Dwg No: 5458/A01	AR Engineering Design Pty Ltd	05.02.2021
Concrete Footings Plan	Dwg No: 5458/A02	AR Engineering Design Pty Ltd	05.02.2021
Structural Details	Dwg No: 5458/A03	AR Engineering Design Pty Ltd	05.02.2021
Structural Details 2	Dwg No: 5458/A04	AR Engineering Design Pty Ltd	05.02.2021
Structural Details 3	Dwg No: 5458/A05	AR Engineering Design Pty Ltd	05.02.2021
Health & Safety Notes	Dwg No: 5458/W01	AR Engineering Design Pty Ltd	01.02.2021
Roof Framing & Bracing Plan	Dwg No: 5458/W02	AR Engineering Design Pty Ltd	01.02.2021
Section S1	Dwg No: 5458/W03	AR Engineering	01.02.2021

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**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
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ATTACHMENT 1 DA21/1527 Draft Conditions of Consent

		Design Pty Ltd	
Structural Details	Dwg No: 5458/W04	AR Engineering Design Pty Ltd	01.02.2021
Wall bracing details	Dwg No: 5458/W05	AR Engineering Design Pty Ltd	01.02.2021
Statement of Environmental Effects	Job No: 18-11276	G E Walker Architect	January 2021
Waste Management Plan	Not Referenced	Not Referenced	Not dated
Energy Efficiency Evaluation Section J of NCC 2019	Ref: 19-2678.1, Rev: 1	Efficiency Assessments	03 February 2021
Traffic and Parking Assessment Report	Report No: PT20024r01_Final	Positive Traffic	June 2020

Reason: *To ensure the development is carried out in accordance with the approved plans and documentation.*

3. Inconsistency between documents

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent shall prevail to the extent of the inconsistency.

Reason: *To ensure that the development is undertaken in accordance with the submitted plans and documents (as amended).*

4. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(a) That the work must be carried out in accordance with the requirements of the National Construction Code.

(b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason: *The condition is prescribed under clause 98 of the Environmental Planning and Assessment Regulation 2000.*

5. Erection of Signs

A sign must be erected in a prominent position on any site on which building work, is being carried out:

(a) Showing the name, address and telephone number of the Principal Certifier (PC) for the work, and

(b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
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and 147 DP 1231974**

ATTACHMENT 1 DA21/1527 Draft Conditions of Consent



- (c) Stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: *The condition is prescribed under clause 98A of the Environmental Planning and Assessment Regulation 2000.*

6. Compliance with Disability Discrimination Act 1992

This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act.

Reason: *To inform of relevant access requirements for persons with a disability.*

Note: *Disability (Access to Premises - Buildings) Standards 2010 -As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE**

7. Application for a Construction Certificate (Building Works)

The applicant shall apply to Council or a Principal Certifier (PC) for a Construction Certificate to carry out the relevant building works in accordance with this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and building specifications complying with the National Construction Code (NCC) relevant Australian Standards, and the development consent and conditions.

(b) If Council or a Principal Certifier (PC) issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

(c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.

(d) Essential services plan outlining the existing and proposed fire safety measures.

(e) Plans detailing the layout, extent and location of key components of any required Hydraulic Fire Safety System/s (Fire Hydrant and Fire Hose Reels) including Specifications that describe the basis for the design, installation and construction and identify the provisions of the BCA upon which the design of the system is based. The Plans and Specifications shall both be endorsed by a competent fire safety practitioner (CFSP) as complying with the relevant provisions of the Building Code of Australia (BCA).

(f) Disabled access provisions to common and public areas in accordance with AS1428 Design

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for Access and Mobility and the Premises Code.

(g) If an alternative solution to the “deemed to satisfy” provisions of National Construction Code is proposed, the following details must be lodged:

- Performance requirements that the alternative solution intends to meet.
- Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
- A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body.

Reason: *A requirement under the provisions of the Environmental Planning and Assessment Act 1979.*

Note: *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifier (PC), and lodgement of Notice of Commencement.*

Note: *Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence prior to the issue of a Construction Certificate.*

8. Appointment of Principal Certifier (PC)

No work shall commence in connection with this Development Consent until:

(a) A Construction Certificate for the building work has been issued by:

- (i) the consent authority; or
- (ii) a Principal Certifier (PC); and

(b) the person having the benefit of the development consent has:

- (i) appointed a Principal Certifier (PC) for the building work, and
- (ii) notified the Principal Certifier (PC) that the person will carry out the building work as an owner-builder, if that is the case, and

(b1) the Principal Certifier (PC) has, no later than 2 days before the building work commences:

- (i) notified the Council of his or her appointment, and
- (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- (ii) notified the Principal Certifier (PC) of such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(c) the person having the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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Reason: *To ensure that there is certainty as to the consent applying to the land.*

9. Access for People with Disabilities

Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*.

Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.

Note: *Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.*

Reason: *To inform of relevant access requirements for persons with a disability.*

10. Developer to provide photos of damage to Council property

The developer must provide Council and the Principal Certifier (PC) with photos of any damage of Council property adjoining the development prior to the issue of the Construction Certificate.

Photos should include any damage to footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter and road pavement and the like.

Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer/owners/proponents expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged Council property are to be carried out by the contractor/builder to Council's specification and supervision prior to issue of any Occupation Certificate.

Reason: *To ensure that Council's assets are protected.*

11. Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- Carry out sewerage works;
- Carry out water supply;
- Carry out stormwater drainage works.

Reason: *A requirement under the provisions of the Local Government Act 1993.*

12. Construction Management Plan

To undertake development works including demolition, earthworks and construction a Construction Management Plan (CMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate. The CMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CMP must include the following:

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- a) Details of site security;
- b) Off-street parking for employees, contractors and sub-contractors.
- c) Site access for construction vehicles and equipment purposes.
- d) Public safety in the use of roads and footpaths where development activities adjoin such facilities.
- e) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- f) Provision for loading and unloading materials;
- g) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;
- h) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)
- i) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.
- j) External lighting and security alarms proposed for the construction site.
- k) Firefighting measures to be available on site during development and construction.
- l) Sanitary amenities proposed on site during development and construction.
- m) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;
- n) Details of management of storm water run-off and the propose sediment and erosion control measures including the location of any rubble grids;
- o) Details of any air and dust management;
- p) Details of noise and vibration controls;
- q) Anticipated staging and duration of works
- r) Provision of Traffic Management Plan (TMP) and Traffic Control Plans (TCP)

Reason: *To ensure the safety, amenity and protection of public infrastructure and the environment.*

13. Stormwater - Control of Peak Discharge

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Design Construction Specifications and Drawings.

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Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge shall be provided with the application for a Construction Certificate.

Any stormwater temporarily stored onsite shall be done in a manner that does not jeopardise public safety. In this regard the development shall provide a risk assessment with the Construction Certificate documentation.

Reason: *To ensure the peak discharge from the site is no greater than the pre-developed peak discharge.*

14. Detailed Stormwater Drainage System Design

Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards shall be submitted to Council and approved by Council's Development Engineer.

Should any changes be required to the approved storm water drainage plan, the amended design shall achieve equivalent performance standards in accordance with Design Specifications.

Note: *Construction Certificate Approval does not include approval for works external to the property or civil works.*

Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the *Roads Act 1993*, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 of the *Roads Act 1993* applies.

Reason: *To ensure adequate storm water management.*

15. Carpark Design - Site Servicing

The car park shall be designed to accommodate the turning movements of the largest vehicle servicing the development. The car park design shall incorporate the following:

- (a) The site shall accommodate the turning movements of the largest service vehicle.
- (b) Service vehicles shall manoeuvre into and out of the site in a forward direction.
- (c) The front overhang, and swept path made by the service vehicle shall not obstruct car park traffic or encroach onto parking spaces.
- (d) The vehicle swept path shall be reflected on the engineering design plans.
- (e) Loading and unloading of service vehicles shall be undertaken onsite with no intrusion onto the road system.
- (f) The footpath crossing shall be splayed from the property boundary to the kerb line to accommodate the swept path made by the service vehicle.

Reason: *To ensure that the car parking area is constructed to Council requirements.*

16. Accessible Car Parking Spaces

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Two (2) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons.

These spaces shall be constructed and identified in accordance with Volume 1 of the National Construction Code (NCC) and AS/NZS 2890.6 - Parking Facilities; Off-street parking for people with disabilities.

Details to demonstrate compliance shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To inform of relevant access requirements for persons with a disability.*

17. Off Street Parking Provision - General

Thirty two (32) off-street car parking spaces suitably marked in accordance with the approved plans (unless elsewhere specified) shall be provided. Each space shall have minimum dimensions in accordance with Australian Standard AS2890.1 Off Street Car Parking.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

Reason: *To ensure adequate parking and access.*

18. Waste Management Plan - Construction Waste

A Waste Management Plan shall be completed and submitted to Council for approval, prior to the issue of the Construction Certificate for the development.

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

Reason: *To minimise the amount of waste going to landfill.*

19. Erosion and Sediment Control Plan

To minimise soil erosion and sediment movement during construction, the following measures shall be implemented:-

(a) Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or entering the surface water system outside the worksite boundaries.

(b) Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.

(c) Stockpiles of construction and landscaping materials, and of site debris shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.

(d) Final site spoil shall be disposed of to conform to the specifications and standards quoted

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and to any conditions of approval of those measures and must comply with any relevant NSW Department of Planning and Environment requirements.

(e) Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75mm above adjoining ground level.

(f) Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

(g) All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or such other period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.

(h) Sediment control devices shall be installed prior to any site works being carried out and prior to construction work commencing and remain in position until the disturbed soils are turfed, 70% vegetated or otherwise stabilised.

Reason: *To minimise soil erosion and sediment movement during construction.*

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK

20. Notice of Commencement

No work shall commence until a notice of commencement form has been submitted (form will be attached with issue of a Construction Certificate or Subdivision Works Certificate or available from Council's website), giving the Principal Certifier (PC):

(a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent.

(b) Details of the appointment of a Principal Certifier (PC) (either Wingecarribee Council or another Principal Certifier).

(c) Details of the Principal Contractor or Owner Builder:

- Name
- Builders Licence Number or Owner Builder Permit Number
- Principal Contractor Company Name
- Principal Contractor ABN
- Address of Principal Contractor or Owner Builder
- Email Address

(d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit.

(e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the development been satisfied.

Reason: *Statutory requirement.*

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Advice: *Attached Notice of Commencement form to be completed.*

21. Construction Certificate

No work shall commence until a:

- (a) Construction Certificate is obtained from either the Wingecarribee Shire Council or an Accredited Certifier; and
- (b) Construction Certificate lodged with Council obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service.

Reason *Statutory requirement.*

22. Developers Representative during Construction of Works

A minimum of 48 hours prior to commencement of any construction works on site the Developer shall nominate to Council in writing their representative (Construction Supervisor) who will be responsible for all aspects of construction and site control, including Traffic Control, Sediment and Erosion Control and liaison with Council Officers and all other Authorities.

Details to be submitted include:-

- 1 Name of Representative:
- 2 Company:
- 3 Position:
- 4 Contact phone:
- 5 Contact fax:
- 6 After Hours Contact:
- 7 Signature of Representative:
- 8 Signature & Acceptance of representative by the Developer:
- 9 Council requires that the nominated " Construction Supervisor" either hold qualifications acceptable for Corporate Membership of the Institute of Engineers, Australia, or be Approved by the Director and/or has proven experience and suitable relevant qualifications for the control, supervision and management of civil engineering works as required for carrying land development.

Prior to commencing any works on site the representative shall:

- 10 Inform Council in writing of their intention 7 days before entering the site.
- 11 Submit to Council a proposed Schedule of Works.

The Developer may be required to arrange for Council to peruse all other contract documentation prior to the contractor arriving on site to commence work (Schedule of Works, Specifications Bill of Quantity, traffic control plan and Soil and water management plan).

Failure to comply with the requirements as set out above will result in an immediate stop work order.

Reason: *Statutory requirement.*

23. Fencing of the Construction Site

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the

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works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Reason: *To ensure that the safety of the public is not compromised.*

24. Erosion and Sediment Control

Erosion and sediment control measures (as per the approved Erosion and Sediment Control Plan) shall be installed prior to the commencement of works.

Reason: *To ensure that sediment does not leave the site as a result of the construction of the development.*

25. Set Out Survey

The development shall be set out by a Registered Land Surveyor to ensure the correct location on the site in accordance with the approved site plan prior to the commencement of works.

Reason: *To ensure compliance with the approved plans.*

CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE

26. Approved Plans to be available on site

Endorsed Council approved plans, specifications, documentation and the consent shall be made available on site at all times during construction.

Reason: *To ensure compliance with approved plans.*

27. Imported 'Waste-derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or
- Any other waste-derived material the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material

Note: *Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.*

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997*. However, a licence is not required if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014*.

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Resource recovery exemptions are available on the NSW EPA website at <http://www.epa.nsw.gov.au/waste/>.

Reason: *To ensure that imported fill is of an acceptable standard for environmental protection purposes.*

28. Structure not to be built over easements/infrastructure

No portion of any structure shall be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

Reason: *To protect infrastructure.*

29. Ground Levels

Natural ground levels shall not be altered or adjusted other than shown on the approved plans or where varied by the conditions of consent without the prior consent of Council.

Finished ground levels shall be graded away from the buildings and adjoining properties must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to an approved storm water drainage system.

Reason: *To ensure that natural drainage of the property and adjoining properties is not affected.*

30. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building shall be executed safely and in accordance with appropriate professional standards properly guarded and protected to prevent them from being dangerous to life or property.

Reason: *To ensure the safety of life and property.*

31. Vehicular Access Point - Construction and Delivery Vehicles

A suitable entry point shall be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of (WHAT SIZE) mm in size. Ballast or crushed gravel (minimum of 40mm rock) for the full width of the kerb from the edge of the road to the property boundary.

Reason: *To reduce the possibility of damage to public property.*

32. Stormwater - Construction

The applicant shall provide adequate storm water drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of storm water passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by Council. The point of discharge shall be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear (i.e. provision of drainage easements).

Reason: *To assist in the prevention of erosion of the site from storm water.*

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33. Stormwater - Discharge

All stormwater runoff from the development shall be collected within the property and discharged to an approved stormwater management system.

Reason: *To ensure that stormwater is appropriately disposed of.*

34. Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

(a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and

(b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and

(c) that is fill brought to the site-must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and

(d) that is excavated soil to be removed from the site-must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

Reason: *Structural safety.*

35. Damage to Adjoining Properties

All precautions shall be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs shall be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

Reason: *Structural safety.*

36. Erosion and Sediment Control Plan Compliance

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

Note: *In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine and/ or orders.*

Reason: *To ensure that the environment is protected.*

37. Prevention of Nuisance

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the

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surrounding neighbourhood from windblown dust, debris and noise during the carrying out of works in the development.

Reason: *Health and amenity.*

38. Approved hours of Construction/Demolition

Construction/demolition activities shall be limited to the following hours:

DAY	HOURS
Monday to Saturday	7:00am to 5:00pm
Sunday	Nil
Public Holidays	Nil

Reason: *To ensure that the amenity of the surrounding area is not compromised as a result of the construction of the proposal.*

Note: *Any variation to these hours shall require Council consent via the lodgment of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.*

39. Construction Management Plan

All development activities and traffic movements shall be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan shall be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

Reason: *Compliance with condition of consent.*

40. Building Operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the storm water drainage system.

Reason: *To ensure that building materials are not washed into storm water drains.*

41. Maintenance of the site

All materials and equipment shall be stored wholly within the work site.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required shall be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- (a) all vehicles entering or leaving the site shall have their loads covered, and

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(b) all vehicles, before leaving the site, shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site shall be left clear of waste and debris.

Reason: *Environmental amenity.*

42. Temporary Onsite Toilet

Toilet facilities shall be available or provided at the work site prior to the commencement of works and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

Reason: *To ensure that there are appropriate facilities on-site for construction workers.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN INTERIM OR FINAL
OCCUPATION CERTIFICATE**

43. Occupation Certificate

In accordance with Section 6.9 of the *Environmental Planning and Assessment Act 1979*, an application for an Occupation Certificate, shall be made on completion of the works and the relevant application fee paid. All works specified in the development consent and approved Construction Certificate plans shall be completed and all development consent conditions complied with prior to the issue of the Occupation Certificate.

The Principal Certifier (PC) is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Reason: *To comply with the provisions of the Environmental Planning and Assessment Act 1979.*

Note: *A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of Section 6.10 of the Environmental Planning and Assessment Act 1979 unless an Occupation Certificate has been issued in relation to the building or part.*

Note: *The applicant is to ensure that works associated with the Section 138 (Roads Act) approval and Section 68 (Local Government Act) approval are completed and inspected by Council.*

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44. Section 68 Local Government Act Final

The applicant is to ensure that the works associated with the Section 68 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.

Reason: *To ensure that the development is completed as per this consent and the approved plans.*

45. Council Property

The applicant shall rectify any damage to Council property (including footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.

Reason: *To ensure that Councils assets are protected.*

46. Civil Engineering works and services

All civil engineering works and services are to be constructed in accordance with the Wingecarribee Shire Council Engineering Plans and Specifications, relevant Standards and approved engineering plans prior to the issue of the Occupation Certificate.

Reason: *To ensure that the works and services are constructed in accordance with the approved plans.*

47. Certification of Internal Civil Works

On completion of the works and prior to the issue of the Occupation Certificate, certification from a professional engineer who has appropriate experience and competence in the relevant registered area of practice, shall be submitted to Council detailing that all the internal civil works (i.e. internal driveways, paths and stormwater drainage system, including any onsite detention) are in accordance with the approved plans and specifications.

Reason: *Asset management.*

48. Defects and Liability Bond for Public Assets - Building Works

Prior to the issue of any Occupation Certificate the developer shall lodge a cash bond to cover the defects liability period of 24 months for any public infrastructure constructed by them which will be handed over to council. The liability period will commence from the date of issue of the Occupation-Certificate.

The security bond will be in an amount equal to 10% of the value of the total building works with a minimum value of \$10,000 based on the building costs supported by written evidence in accordance with Council's Bond Policy. The bond shall be assessed by Council for release after the 24 month period on formal request from the developer.

Reason: *To ensure appropriate warranty periods apply for defect liability.*

49. Construction of Concrete Footpath

A concrete footpath of width 1200 shall be constructed along the front of the property.

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The above works shall be programmed and constructed prior to the issue of the Occupation Certificate.

Reason: *Preserve Council asset and amenity.*

50. Asset Management

Prior to the issue of the Occupation Certificate, the developer shall provide a detailed summary of the Assets that will be handed over to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to allow Council to update its Assets register.

The assets to be identified include:

- Drainage systems length and size of pipes, number of pits, total area (m²)

Reason: *To ensure appropriate details are held for asset management.*

51. Identification Survey

An identification survey prepared by a Registered Land Surveyor shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate to demonstrate that all buildings and structures have been constructed entirely within the allotment boundary and in accordance with the approved plans.

Reason *To ensure compliance with the approved plans.*

52. Fire Safety Certificate

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the *Environmental Planning and Assessment (Amendment) Regulation 2000*, prior to the issue of the Occupation Certificate for the building.

A copy of the Fire Safety Certificate and Fire Safety Schedule shall be:

- Forwarded to Wingecarribee Shire Council;
- Forwarded to the Fire Commissioner; and
- Prominently displayed in the building.

Reason: *To ensure the safety of the building.*

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT

53. Use not to Commence

The approved use shall not commence until the development has been completed in accordance with Council's consent and issue of any other Council approvals which may be required.

Reason: *To ensure that the use of the site is lawful.*

54. Hours of operation

The approved hours of operation are:

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The building shall not be occupied prior to 7.00am on any day.

No use of the building shall occur after 10.30pm on any day.

Reason: *To ensure that the amenity of the surrounding area is not compromised as a result of the operation of the development.*

Note: *Any variation to these hours will require Council consent via the lodgement of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.*

55. Noise Control

The use of the premises shall not give rise to the transmission of offensive noise to any place of different occupancy.

Reason: *To prevent loss of amenity to the area.*

56. Annual Fire Safety Statement

Each year, the owner of a building to which an essential fire safety measure is applicable shall cause the Council to be given an annual fire safety statement for the building. Such a fire safety statement:

- (a) shall deal with each essential fire safety measure in the building premises; and
- (b) shall be given within twelve months after the last such statement was given, or if no such statement was given, within twelve months after a final fire safety certificate was first issued for the building.

As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:

- (a) shall cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades; and
- (b) shall cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be permanently displayed in the building.

Reason: *To ensure compliance with fire safety requirements.*

57. Food Premises - General

The construction and operation of the food premises shall comply with all applicable legislation/regulation and standards, including:

- The *Food Act 2003*
- Food Regulation 2004
- Food Standards Australia and New Zealand - Food Standards Code 2001
- Relevant Australian Standards for Design, Construction and Fit out of Food Premises
- Mechanical ventilation - Australian Standard 1668.2-2002

Reason: Compliance legislation and standards.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
ASSESSMENT PANEL MEETING**

Wednesday 4 August 2021

- 5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974**



ATTACHMENT 1 DA21/1527 Draft Conditions of Consent

CONCURRENCE CONDITIONS

58. Concurrence - Water NSW

Concurrence has been granted by Water NSW for the development pursuant to *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*. The conditions provided by Water NSW are provided below

5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974

ATTACHMENT 1 DA21/1527 Draft Conditions of Consent



PO Box 398, Parramatta NSW 2124
Level 14, 169 Macquarie Street
Parramatta NSW 2150
www.waternsw.com.au
ABN 21 147 934 787

Water NSW's Concurrence Conditions
DA 21/1527; Lot 146 DP 1231974; 102 Boardman Road, Bowral

General

1. The site layout and works shall be as specified in the Statement of Environmental Effects (dated January 2021) and shown on the Site Plans (Job No. 18-1176; Dwg. No. 01; Issue A, dated September 2020 and Dwg. No. 05, undated) all prepared by G.E. Walker Architect. No revised site layout, staging or external works that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 1 - Water NSW has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Stormwater Management

2. All stormwater management measures as shown and specified on the Concept Stormwater Drainage Plan, OSD/Bioretenion Typical Details Plan and Rainwater Tank Typical Detail Plan (Project No. 21000219; Dwg. Nos. STW01, STW03 and STW04; Rev. 00, dated 24.05.2021) all prepared by Strategic Environmental and Engineering Consulting, shall be incorporated in the final stormwater drainage plan and be to the satisfaction of Council. The final approved stormwater drainage plan shall be implemented.
3. The car park shall be sealed and shall drain to stormwater pits that are directed to a bioretention basin on the site.
4. The bioretention basin shall be located and constructed as shown on the Concept Stormwater Drainage Plan and specified on the OSD/Bioretenion Typical Details Plan (Project No. 21000219; Dwg. Nos. STW01 and STW03, Rev. 00, dated 24.05.2021) prepared by Strategic Environmental and Engineering Consulting. The bioretention basin shall:
 - be designed and constructed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
 - direct all discharge and overflow to Council's stormwater drainage system via an armoured discharge point such that discharge does not cause erosion
 - ensure the discharge outlets are consistent with the requirements of any Controlled Activity Approval under the *Water Management Act (2000)* from the Natural Resources Access Regulator (NRAR)
 - be accessible from a road or driveway by machinery to facilitate cleaning, monitoring and maintenance of the structures
 - be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised
 - be located either above or be protected from potential damage form the 0.02 Annual Exceedance Probability Flood level
 - be permanently protected from heavy vehicle damage by guardrails, castellated kerb, fences, bollards, bunds or similar structures, with signage to be erected to

**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974**

ATTACHMENT 1 DA21/1527 Draft Conditions of Consent



- advise of its nature and purpose in water quality management and interpretation, and
- be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is re-vegetated or stabilised.
5. A rainwater collection and reuse system for the building roof shall be installed that:
- includes rainwater tanks with a minimum total capacity of 8,000 litres above any volume required for mains top-up
 - ensures roofs and gutters designed to maximise the capture of rainwater in the tanks
 - ensures that the tanks are plumbed to toilets and other areas for non-potable use including use landscape watering, and
 - ensures that all rainwater tank overflow is directed to the bioretention basin on the site.
6. No variation to stormwater treatment or management that will have any impact on water quality shall be permitted without prior agreement of Water NSW.
7. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

Operational Environmental Management Plan

8. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW and Wingecarribee Shire Council by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The Plan shall be provided to Council for maintenance and management of stormwater treatment devices. The Plan shall:
- include details on the location, description and nature of stormwater management structures such as pits, pipes, bioretention basin and rainwater collection system
 - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - identify the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
 - include checklists for recording inspections and maintenance activities.
9. All stormwater treatment devices shall be monitored, maintained and managed as per the Operational Environmental Management Plan.

Reason for Conditions 2 to 9 – To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.

Construction Activities

10. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works required as part of the development. The Plan shall:
- be developed prior to the issuance of a Construction Certificate and be to the satisfaction of Council

**5.1 Recreation Facility (Indoor) Southern Highlands Bridge Club -
David Woods Playing Fields, Boardman Road Bowral, Lot 146
and 147 DP 1231974**

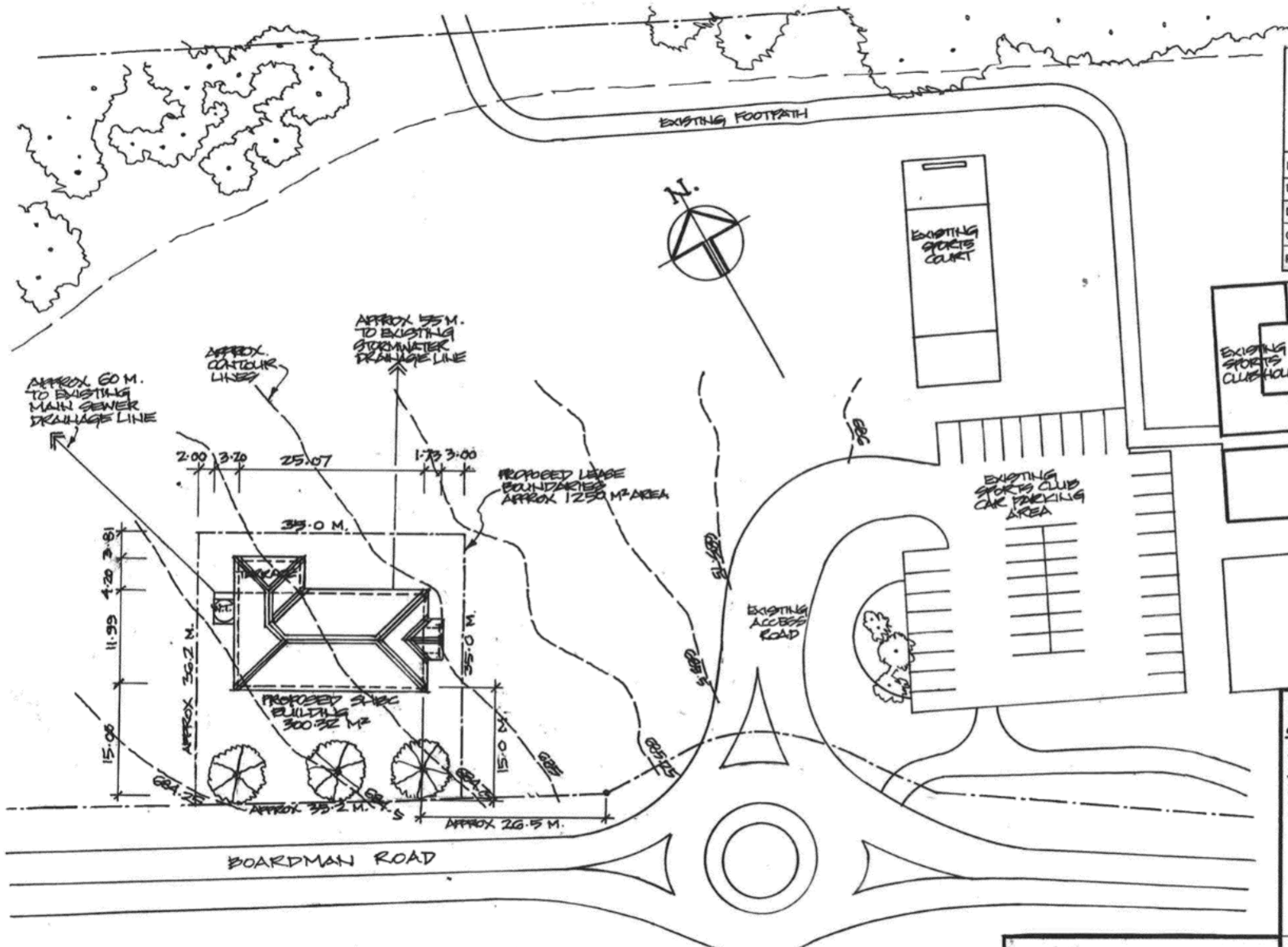
ATTACHMENT 1 DA21/1527 Draft Conditions of Consent



- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004), and
 - include controls that prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system.
11. The Soil and Water Management Plan shall be implemented, and no works shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

Reason for Conditions 10 & 11 - To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

END OF CONDITIONS



Issue:	Date:	Amendments:
Drawn: GEW	SEPT 20	LEAVE
Date: JUL 2020	The contractor is to check all dimensions on site, and if in doubt, contact Architect for clarification. Figured dimensions take preference to scaling.	
Checked:	This drawing is subject to copyright.	
Printed:		

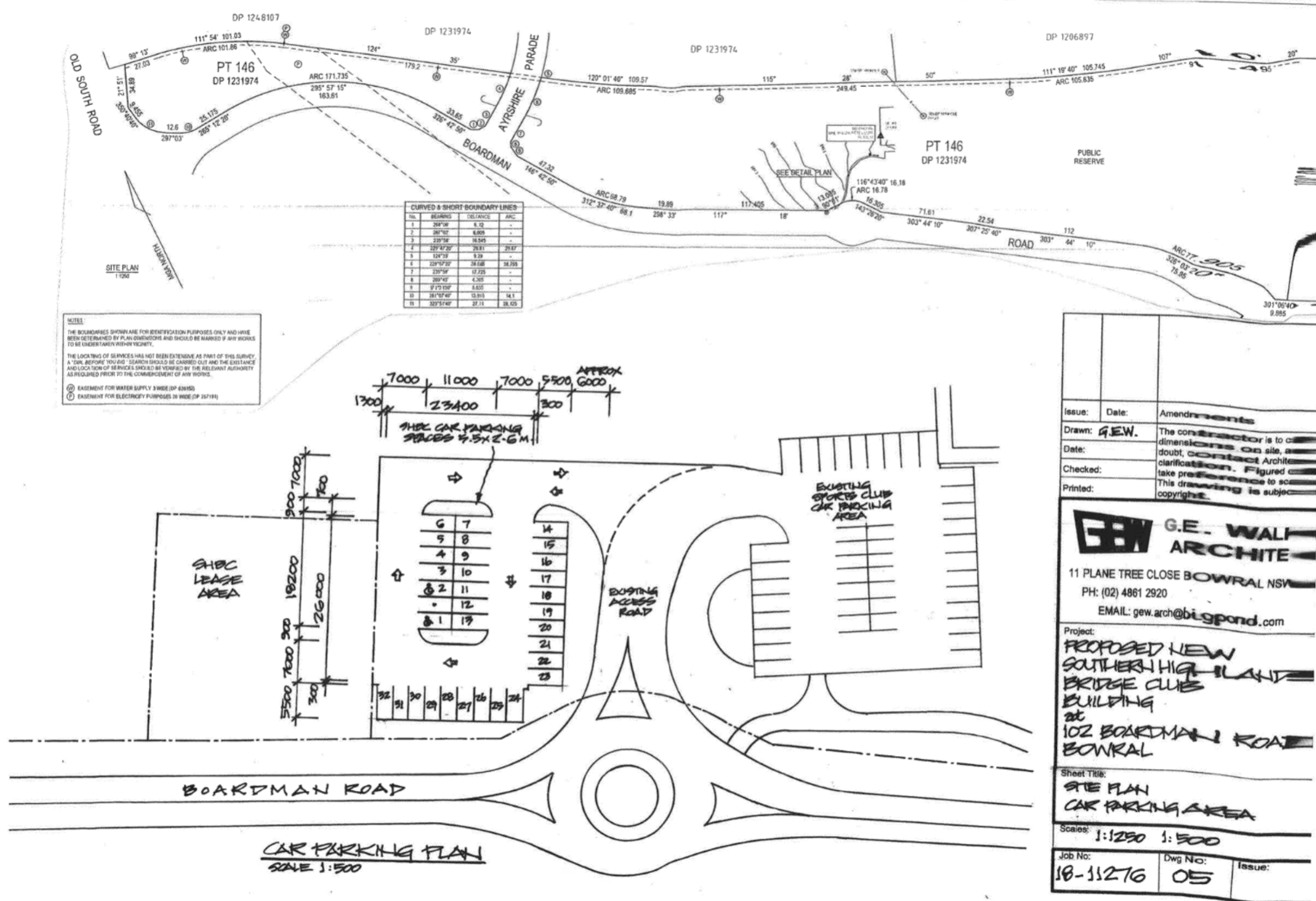
- NOTES -**
- BUILDER TO LOCATE EXISTING SERVICES ON/NEAR SITE BEFORE BUILDING WORK.
 - STORMWATER DRAINAGE - COLLECT NEW STORMWATER & TANK OVERFLOW TO REAR EXISTING DRAINAGE LINE.
 - SEWER DRAINAGE - COLLECT NEW TO EXISTING NORTHERN REAR MAIN SEWER DRAINAGE LINE.
 - BINS - DURING BUILDING WORK, SUPPLY TEMPORARY COVERED WASTE/RECYCLE BINS IN SUITABLE POSITION.
 - BOUNDARY BARRIERS - DURING BUILDING WORK, SUPPLY TEMPORARY HAY BALEE OR SEDIMENTARY FABRIC FENCE AT SITE PERIMETER OF BOUNDARY.

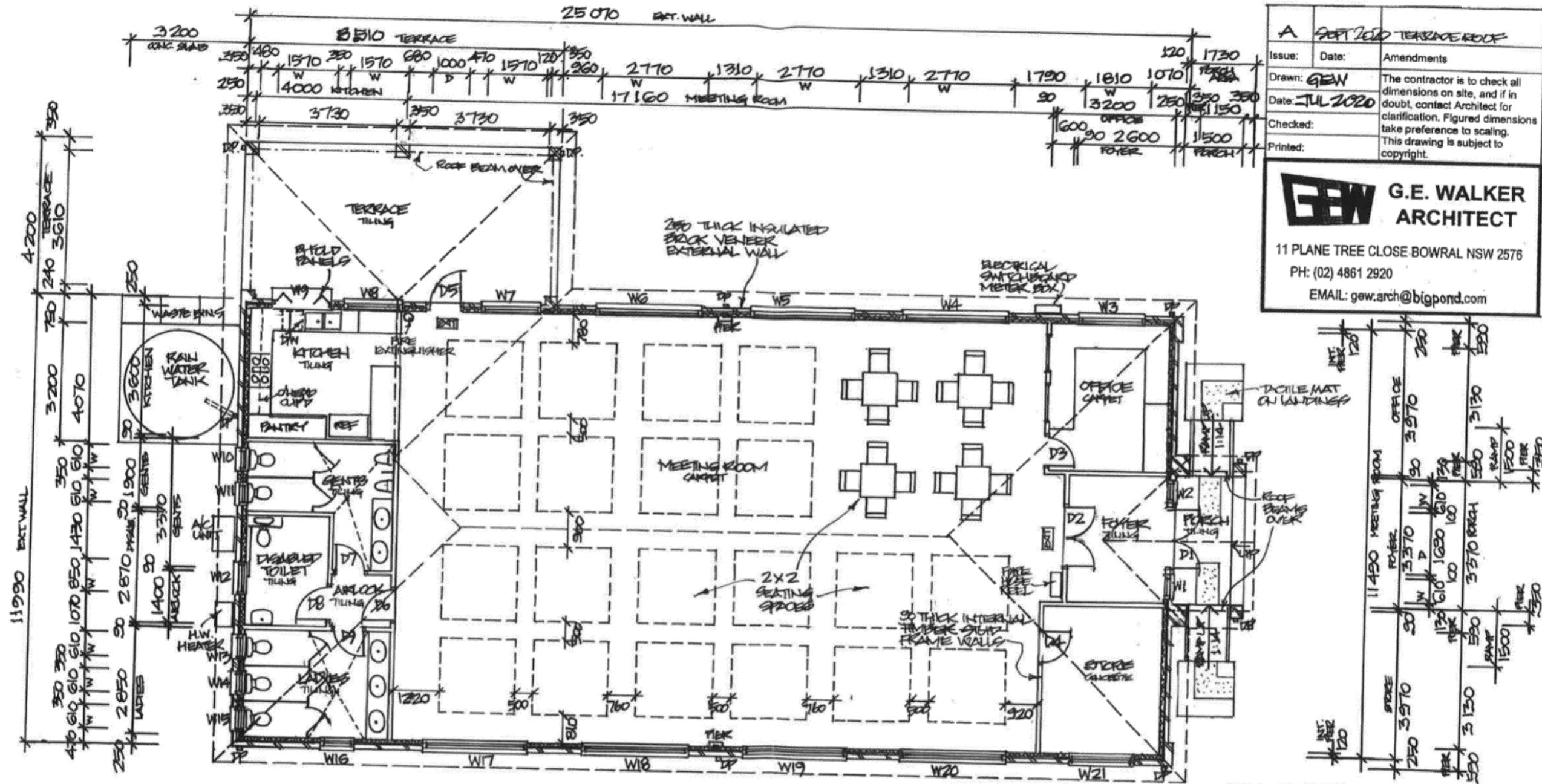
Project:
PROPOSED NEW SOUTHERN HIGHLANDS BRIDGE CLUB BUILDING
 at
 102 BOARDMAN ROAD BOWRAL

SITE PLAN LOT 146 DP 1231974
 SCALE 1:500

GEW G.E. WALKER ARCHITECT
 11 PLANE TREE CLOSE BOWRAL NSW 2576
 PH: (02) 4861 2920
 EMAIL: gew.arch@bigpond.com

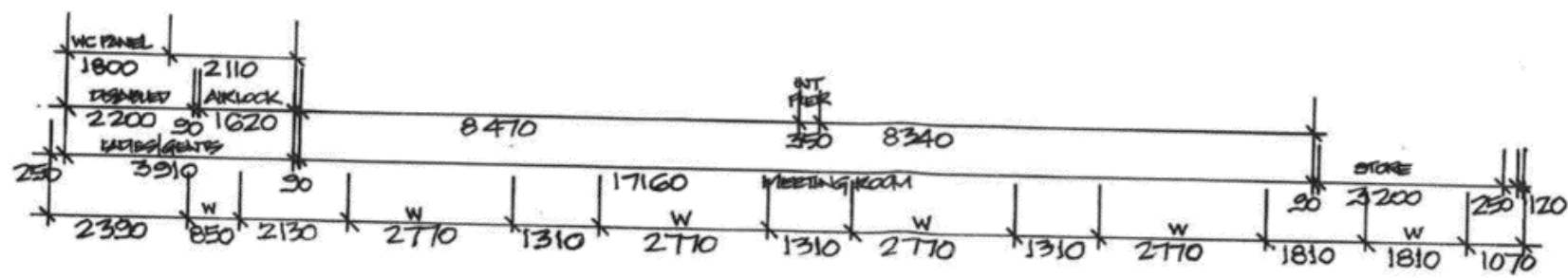
Sheet Title:	SITE PLAN		
Scales:	1:500		
Job No:	Dwg No:	Issue:	
18-11276	01	A	





A SEPT 2020 TERRACE ROOF		
Issue:	Date:	Amendments
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Date: JUL 2020		This drawing is subject to copyright.
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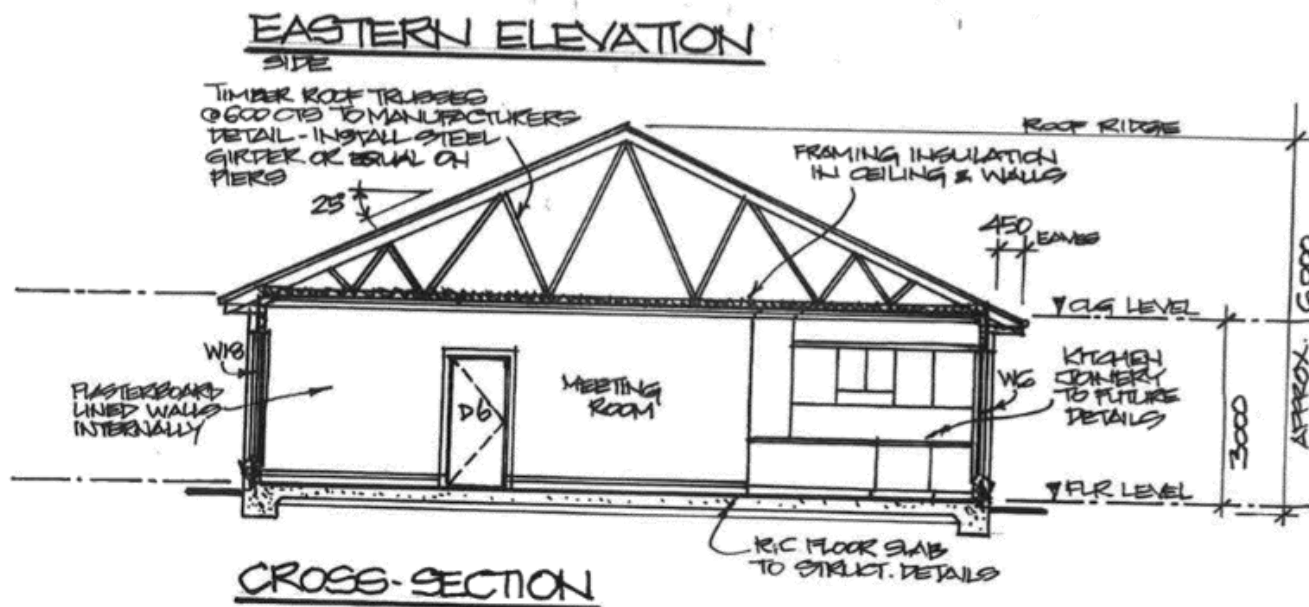
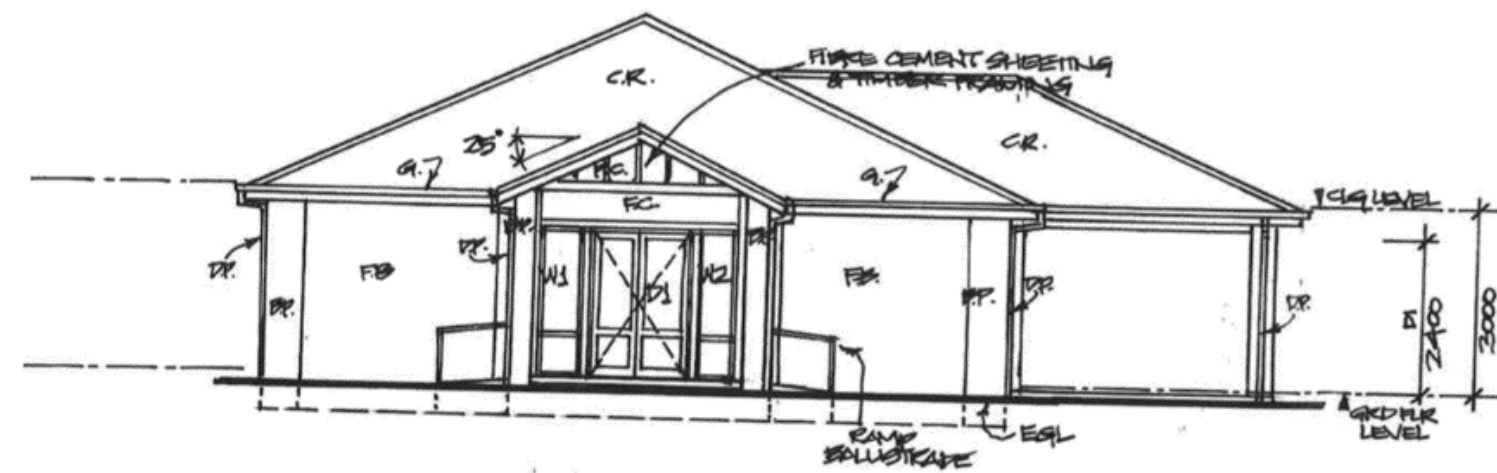
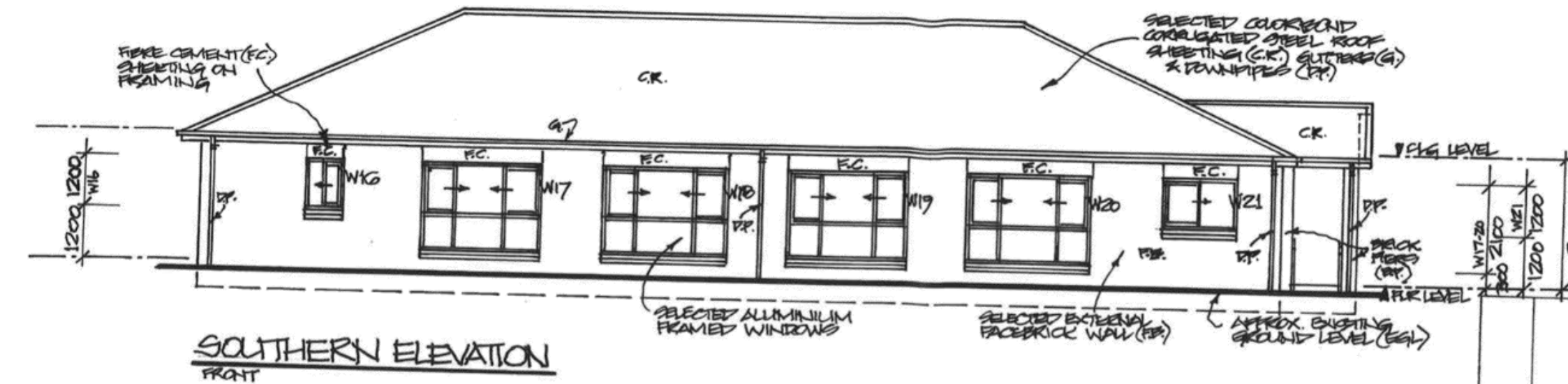
GEW G.E. WALKER ARCHITECT
 11 PLANE TREE CLOSE BOWRAL NSW 2576
 PH: (02) 4861 2920
 EMAIL: gew.arch@bigpond.com



GROUND FLOOR PLAN
 SCALE 1:100

Project:
PROPOSED NEW SOUTHERN HIGHLANDS BRIDGE CLUB BUILDING
 at
 102 BOARDMAN ROAD BOWRAL

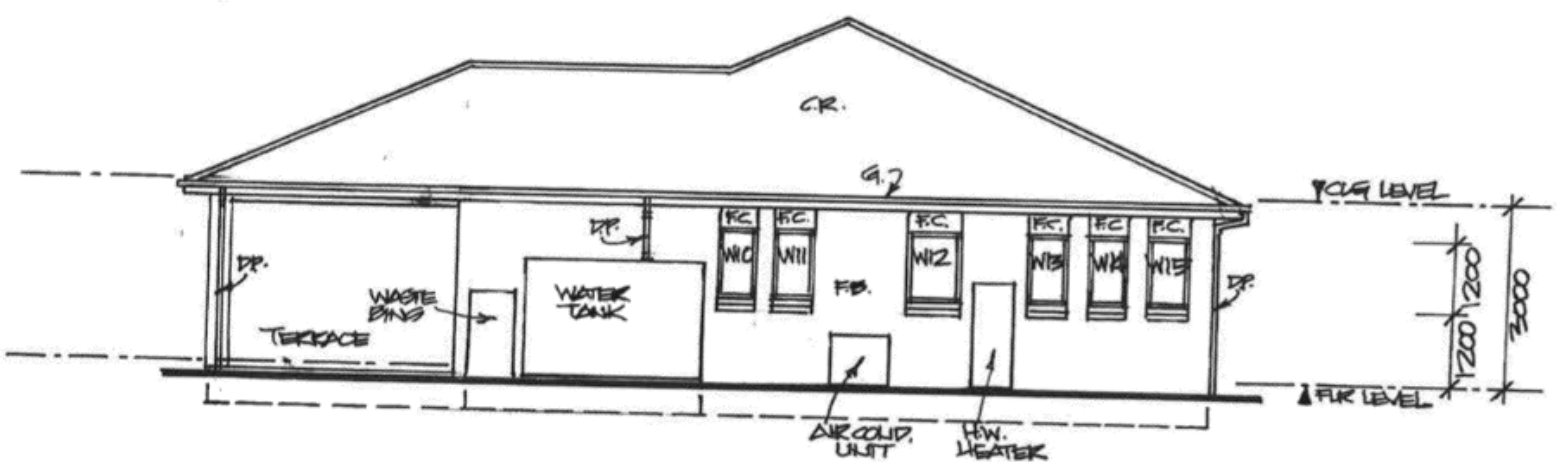
Job No	Draw No	Issue
18-11276	02	A



A	SPR 2020	TERRACE ROOF
Issue:	Date:	Amendments
Drawn:	GEW	The contractor is to check all dimensions on site, and if in doubt, contact Architect for clarification. Figured dimensions take preference to scaling. This drawing is subject to copyright.
Date:	JUL 2020	
Checked:		
Printed:		
GEW G.E. WALKER ARCHITECT 11 PLANE TREE CLOSE BOWRAL NSW 2576 PH: (02) 4861 2920 EMAIL: gew.arch@bigpond.com		
Project: PROPOSED NEW SOUTHERN HIGHLANDS BRIDGE CLUB BUILDING at 102 BOARDMAN ROAD BOWRAL		
Sheet Title: ELEVATIONS SECTION		
Scales: 1:100		
Job No:	Dwg No:	Issue:
18-11276	03	A



NORTHERN ELEVATION
 REAR



WESTERN ELEVATION

A	SEPT 2020	TERRACE ROOF
Issue:	Date:	Amendments
Drawn: GEW	The contractor is to check all dimensions on site, and if in doubt, contact Architect for clarification. Figured dimensions take preference to scaling.	
Date: JUL 2020	This drawing is subject to copyright.	
Checked:		
Printed:		
GEW G.E. WALKER ARCHITECT		
11 PLANE TREE CLOSE BOWRAL NSW 2576		
PH: (02) 4861 2920		
EMAIL: gew.arch@bigpond.com		
Project: PROPOSED NEW SOUTHERN HIGHLANDS BRIDGE CLUB BUILDING at 102 BOARDMAN ROAD BOWRAL		
Sheet Title: ELEVATIONS		
Scales: 1:100		
Job No: 18-11276	Dwg No: 04	Issue: A

6 PLANNING PROPOSALS

6.1 Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964, "Calwalla" Sheepwash Road, Glenquarry

Report Author: Senior Strategic Land Use Planner
Authoriser: Manager Strategic Land Use Planning

PURPOSE

The purpose of this report is to seek to finalise the Planning Proposal to reclassify Lots 11, 12 and 13 DP 1150964 being Council owned property at "Calwalla", Sheepwash Road, Glenquarry from "Community" land to "Operational" land.

Applicant / Proponent	Wingecarribee Shire Council
Owners	Wingecarribee Shire Council
Consultants	N/A
Notification	24 March to 30 April 2021
Number Advised	14
Number of Submissions	Nil
Current Zoning / MLS	E3 Environmental Management, 40 hectares.
Proposed LEP Amendment/s	a) Insert Lots 11, 12 and 13 DP 1150964 into Schedule 4 (Classification and reclassification of public land) Part 2 (Land classified, or reclassified, as operational land – no interests changed) as required under clause 5.2 of WLEP 2010. b) Replace Land Reclassification (Part Lots) Map Sheet RPL_007L of WLEP 2010 to reflect the amendment.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

RECOMMENDATION

1. **THAT** the Planning Proposal to insert Lots 11, 12 and 13 DP 1150964, being Council property "Calwalla", Sheepwash Road, Glenquarry, into *Schedule 4 (Classification and reclassification of public land) Part 2 (Land classified, or reclassified, as operational land – no interests changed)* of WLEP 2010, in accordance with clause 5.2 of WLEP 2010, be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*, and
2. **THAT** Land Reclassification (Part Lots) Map Sheet RPL_007L be amended to reflect the reclassification.

BACKGROUND

Lots 11, 12 and 13 DP 1150964 (the subject land) were acquired by Council in 2009 to establish a reclaimed water irrigation area (an area for the storage and disposal of treated effluent) in conjunction with the Robertson Sewage Treatment Plant. The majority of the site is, and will continue to be, used for effluent disposal.

The subject land occupies a total area of some 76.7 hectares and is zoned E3 Environmental Management under WLEP 2010 with a minimum lot size of 40 ha. **Figure 1** below shows the location of the subject land while **Figure 2** indicates the configuration of the lots.

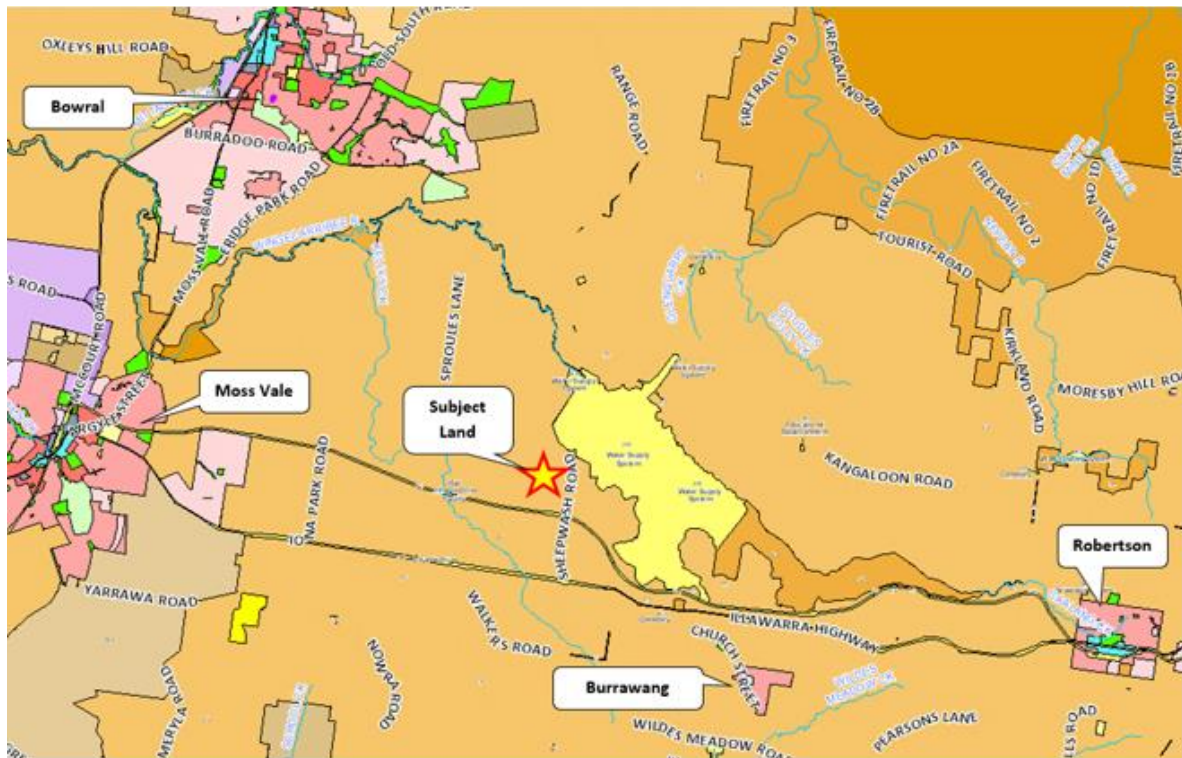


Figure 1 Location of subject property

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Wednesday 04 August 2021

PLANNING PROPOSALS



Figure 2 Property configuration

The majority of the subject land is currently used for treated effluent disposal as indicated in **Figure 2** above. The area bordered by green being used for this purpose either by a fixed irrigation system or by travelling irrigators. The area bordered by yellow in **Figure 2** is not currently used for irrigation and includes the Treated Effluent Storage Dam compound, pump house and road access to the property.

Should the land be reclassified, it is Council's intention to lease some 56% of the subject land, being 394,300m², as indicated by the red bordered land in **Figure 3** below.



Figure 3 Proposed Lease Areas, indicated in red. The areas in blue would be excluded.

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It is confirmed that no interests will be discharged or changed in any way as a result of this Planning Proposal. It is further confirmed that the land is not a Public Reserve as defined in the *Local Government Act 1993* (LG Act).

In order to proceed with these lease arrangements, the subject land needs to be classified as Operational under the provisions of sections 25 and 26 of the LG Act. A search of the Minutes of Council in connection with the purchase of the land has failed to find any resolution of Council classifying the land as "Operational". Accordingly, the land was automatically classified as "Community" land three (3) months after the date of acquisition. It is therefore necessary for the land be reclassified by means of a Planning Proposal.

A report to this effect was considered by Council at its Ordinary Meeting of 26 August 2020 where it was resolved:

THAT a Planning Proposal be prepared and submitted to the NSW Department of Planning, Industry and Environment for a Gateway Determination to reclassify Lots 11, 12 and 13 DP 1150964, being Council property "Calwalla", Sheepwash Road, Glenquarry from Community to Operational.

REPORT

In accordance with the above resolution, a Planning Proposal was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 27 January 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections to the Planning Proposal proceeding.

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. The public exhibition occurred for a period of 37 days from Wednesday 24 March to Friday 30 April 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Notification letters were also sent to 14 neighbours and surrounding land owners. No written submissions were received.

Under s.29 of the *Local Government Act, 1993* a Public Hearing is required as part of the community consultation process when land is being reclassified from Community to Operational.

In this case, a Public Hearing, to be held at 6.00pm on 22 June 2021, was notified on the Community Update page on Council's website between 26 May and 16 June 2021. Neighbouring properties notified during the exhibition period were also notified in writing of the Public Hearing. The Hearing was facilitated by Mr Ian Sinclair, an independent Planning Consultant, and held on-line and live broadcast via YouTube. There were no registrations to address the Hearing on this matter, and no one sought to speak on the night. A copy of the Public Hearing Report forms **ATTACHMENT 1** to this report.

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PLANNING PROPOSALS



It is therefore the recommendation of this report that the Planning Proposal now be completed under s.3.36 of the *Environmental Planning and Assessment Act 1979*. It is noted that the Gateway was conditioned for Council to be authorised as the local plan-making authority.

COMMUNICATION AND CONSULTATION

Community Engagement

Community Engagement was undertaken through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing in accordance with legislative requirements.

Internal Communication and Consultation

Communication occurred with Council's Property Branch.

External Communication and Consultation

Agency consultation was undertaken as required under the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal and Public Hearing were undertaken in accordance with legislative requirements under the *Environmental Planning and Assessment Act 1979* and the *Local Government Act, 1993*.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

RELATED COUNCIL POLICY

None have been identified.

**AGENDA FOR THE INDEPENDENT ADVISORY PLANNING
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PLANNING PROPOSALS



CONCLUSION

The subject land is currently used for Operational purposes as part of the Robertson Sewage Scheme, and it is recommended that Council reclassify the property from “Community” to “Operational” to ensure consistency with the property’s use.

ATTACHMENTS

1. Public Hearing Report



Ms Susan Stannard
Senior Strategic Land Use Planner
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577.

20 July 2021

Dear Ms Stannard,

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify Lots 11, 12 & 13, DP 1150964, Calwalla, 340 Sheepwash Road, Glenquarry, NSW from Community to Operational.

I refer to the above Planning Proposal and to the Public Hearing held on 22 June, 2021, via Zoom Conference which was facilitated by me.

I note that there have not been any submissions to the exhibition nor had there been any registrations for members of the community to address the meeting. I also note, however, that you mentioned this at the meeting and I can confirm that there were no speakers for this matter.

I would like to thank you for using Edge Land Planning for this project and please don't hesitate to contact me if you have any questions.

Yours Faithfully



Ian Sinclair
Principal Consultant

ABN: 46 116 016 768
P.O. Box 22 Frenchs Forest NSW 1640 • Phone: 02 9949 9515 • Mobile: 0417 047898
Website: www.ruralplanning.com.au • Email: isinclair@ruralplanning.com.au

Rural • Environmental • Strategic Planning • Public Policy • Research • Facilitation •
Community Consultation

6.2 Planning Proposal to reclassify from Community to Operational Council owned land, being Lot 1 DP1246504, 7-11 Burgess Street Bundanoon

Report Author: Senior Strategic Land Use Planner
Authoriser: Manager Strategic Land Use Planning

PURPOSE

The purpose of this report is to seek to finalise the Planning Proposal to reclassify Lot 1, DP 1246504, being Council owned land at 7-11 Burgess Street Bundanoon, from “Community” land to “Operational” land.

Applicant / Proponent	Wingecarribee Shire Council
Owners	Wingecarribee Shire Council
Consultants	N/A
Notification	24 March to 30 April 2021
Number Advised	20
Number of Submissions	2
Current Zoning / MLS	R3 Medium Density Residential, 700m ² .
Proposed LEP Amendment/s	a) Insert Lot 1 DP1246504 into Schedule 4 (Classification and reclassification of public land) Part 2 (Land classified, or reclassified, as operational land – no interests changed) as required under clause 5.2 of WLEP 2010. b) Replace Land Reclassification (Part Lots) Map Sheet RPL_008A of WLEP 2010 to reflect the amendment.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

RECOMMENDATION

1. THAT the Planning Proposal to insert Lot 1 DP1246504, being Council owned land at 7-11 Burgess Street, Bundanoon, into *Schedule 4 (Classification and reclassification of public land) Part 2 (Land classified, or reclassified, as operational land – no interests changed)* of WLEP 2010, in accordance with clause 5.2 of WLEP 2010, be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*, and
2. THAT Land Reclassification (Part Lots) Map Sheet RPL_008A be amended to reflect the reclassification.

BACKGROUND

The subject land is located at 7-11 Burgess Street in the southern township of Bundanoon as indicated in **Figure 1** below. The land is zoned R3 Medium Density Residential with a minimum lot size of 700m². The subject land is an unformed closed road of rectangular shape with an area of 406.4 m².

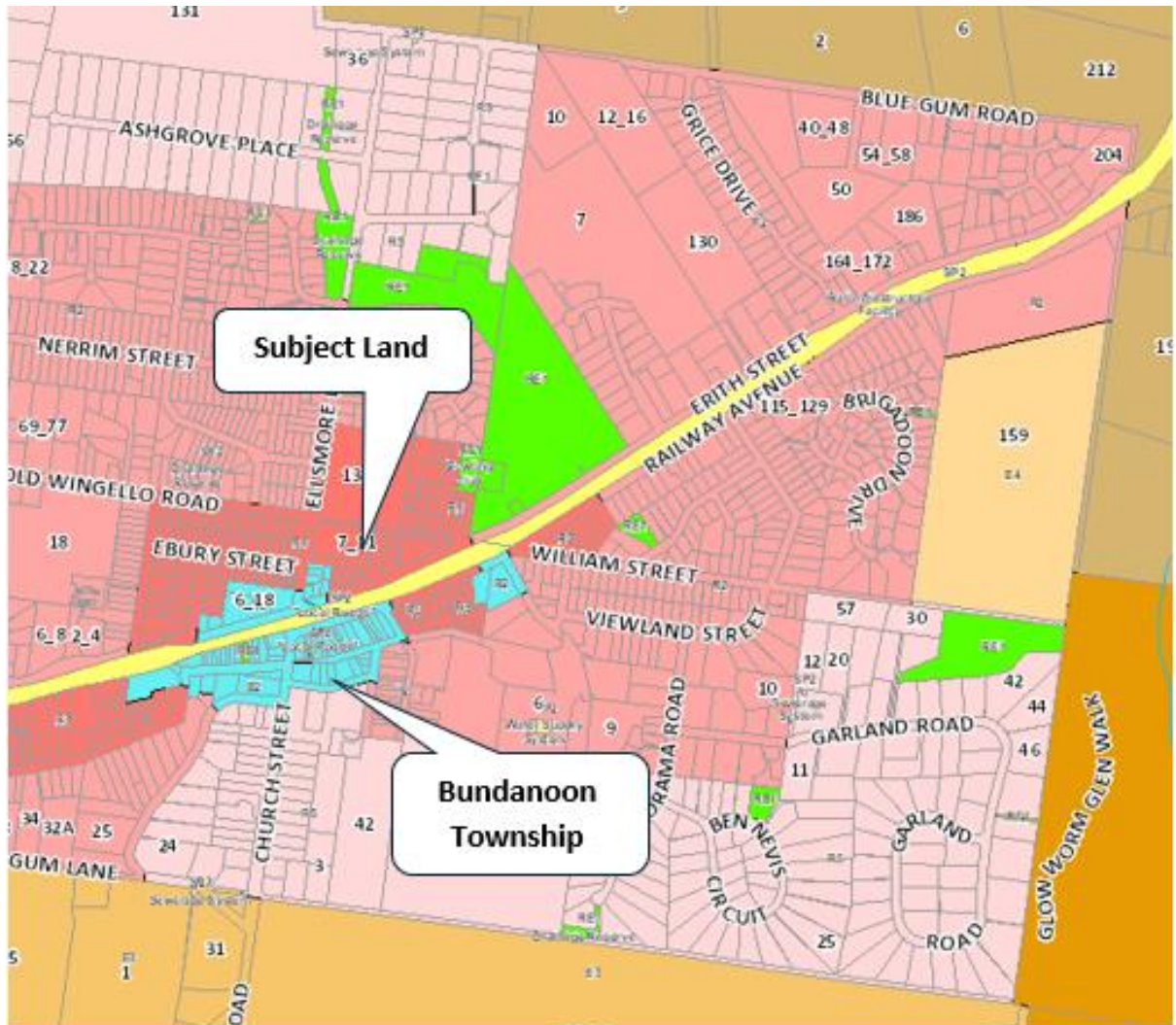


Figure 1 – Local Context of Subject Land

The property is owned by Council and Council formally resolved on 12 April 2017 (MN126/17) to close this segment of Council road reserve to facilitate a request to extend the licenced area available to the Community Groups who currently have formal Licence Agreements with Council to occupy the adjoining Council ‘Operational’ Land”. The lot should have been classified as Operational Land at time of the Council Resolution on 12 April 2017, however, instead, the land was classified as ‘Community’ Land. The subject land is identified in red in **Figure 2** below.

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PLANNING PROPOSALS



Figure 2 – Detail of Subject Land

Figure 2 above also identified the following licensed areas :

- **Green** - Bundanoon Preschool is party to a 21 year lease agreement and is run as a not for profit organisation. The preschool is open to the community and their children to accommodate childcare needs.
- **Purple** - Rural Fire Service (RFS) Bundanoon branch. Although there is no lease or licence agreement in place for their occupation, pursuant to *State Emergency Service Act 1989 Part 4 Section 17*, Council has obligations to provide adequate accommodation and space for the local commander to undertake training and related activities. This occupancy is ongoing.
- **Yellow** – shared by Bundanoon Community Association, Bundanoon Men's Shed and Bundanoon Highlands Gathering are all local 'not for profit' community groups who provide ongoing support and services to the local community. Each group is run by local community members voluntarily from the Burgess Street site with all three groups accommodating the buildings and outdoor space in this area jointly. Their joint Licence Agreement is for a 5-year term, renewed with the approval of Council every 5 years.

The portion of former road located within the licensed area is not currently publicly accessible from Burgess Street and is only utilised by the current Licensed users of the adjoining land, namely the Bundanoon Community Association, the Bundanoon Men's Shed and the Bundanoon Highland Gathering.

The rear portion of the former road is part of the public open space located to the rear of the licensed areas. Apart from the unformed road which is the subject of this reclassification, the remainder of this passive recreation open space with access from Ellsmore Road is classified 'Operational' land. The full extent of the Council owned land at 7-11 Burgess Street is indicated by the cross hatched, blue bordered land in **Figure 3** below.

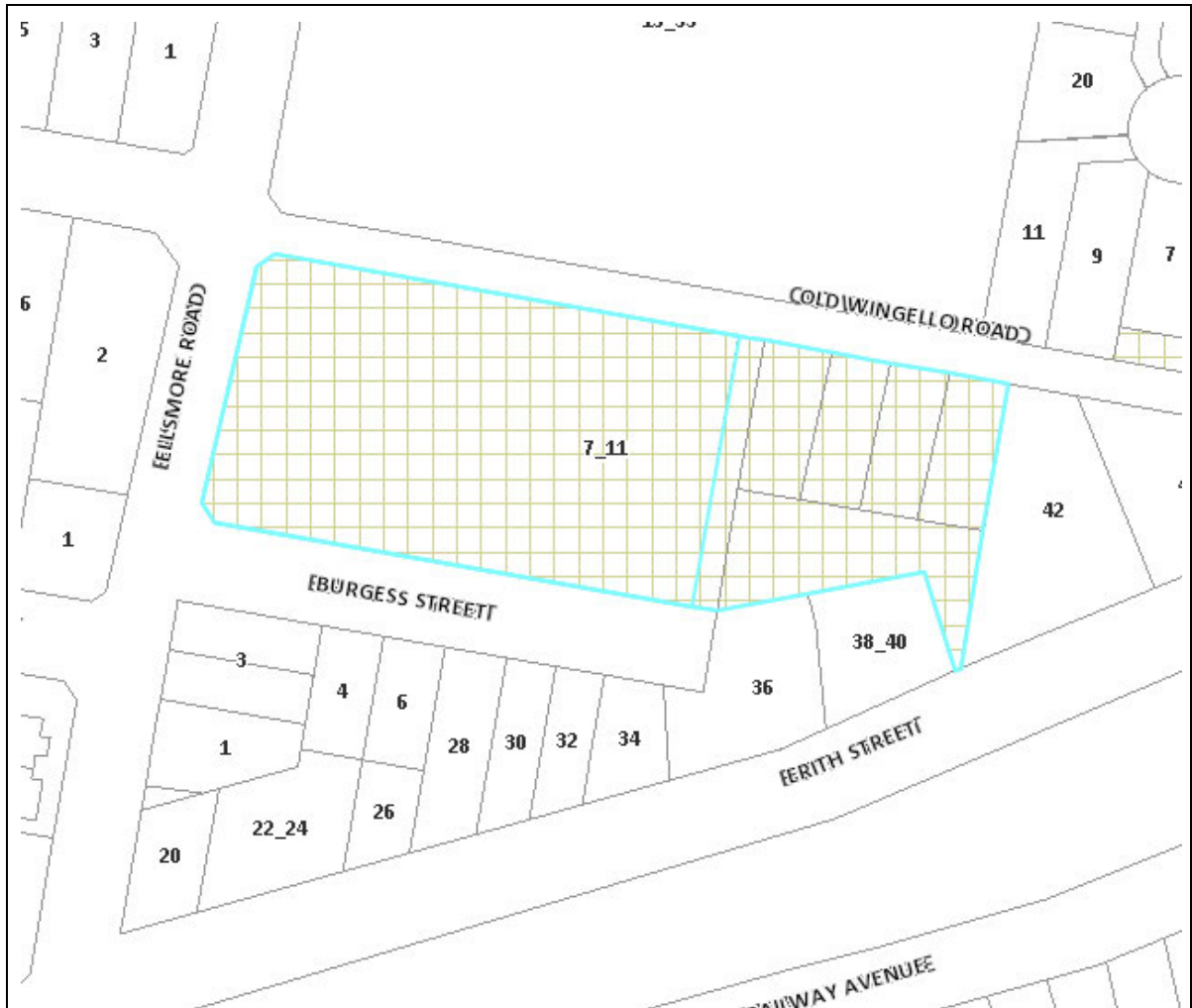


Figure 3 – Extent of Council owned land at 7-11 Burgess Street

The public benefit of the reclassification will be to offer the three local not-for-profit community organisations a larger licensed area, affording them the opportunity to expand their operations on site as needed. In turn, this benefit will flow on to the local community who will be party to the expanded services and support networks these community groups currently offer.

In view of this, it is confirmed that there is no intention of Council to dispose of or sell the land to any third party. In fact, it is intended that all lots be consolidated to enable a more efficient use of the subject land. It is also confirmed that no interests will be discharged or changed in any way as a result of this Planning Proposal.

Therefore, in accordance with s30 of the *Local Government Act 1993*, Council resolved at its Ordinary Meeting of 10 June 2020:

THAT a Planning Proposal be prepared and submitted to the NSW Department of Planning Industry and Environment for a Gateway Determination to reclassify Lot 1 DP 1246504, part 7-11 Burgess Street Bundanoon, from Community to Operational.

AGENDA FOR THE INDEPENDENT ADVISORY PLANNING ASSESSMENT PANEL MEETING

Wednesday 04 August 2021

PLANNING PROPOSALS



REPORT

A Planning Proposal was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 27 January 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections to the Planning Proposal proceeding.

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. The public exhibition occurred for a period of 37 days from Wednesday 24 March to Friday 30 April 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Two (2) written submissions were received.

One submission, from the Bundanoon Community Association (BCA), was supportive of the Planning Proposal and reclassification, noting that "*Council agreed to a request from the BCA, Bundanoon Highland gathering Inc and Bundanoon Men's Shed to extend the licensed area to facilitate a fair use of the land by the three community groups that hold the license. The reclassification, and later consolidation of lots, will enable this to happen*".

The second submission was from a private resident who expressed concern with the constant flow of traffic in the street and lack of adequate parking, especially with, but not limited to, the pre-school. These current traffic safety issues were anticipated to be exacerbated with the more intensive use of the leased land.

The submission included the suggestion that consideration be given to the reconfiguration of Burgess Street to provide egress on to Ellsmore Road via the unformed Old Wingello Road. These concerns are noted and have been passed on to Council's Coordinator Assets Roads and Traffic for consideration and response.

A copy of both submissions were provided to each member of the Independent Advisory Planning Assessment Panel.

Under s.29 of the *Local Government Act, 1993* a Public Hearing is required as part of the community consultation process when land is being reclassified from Community to Operational.

In this case, a Public Hearing, to be held at 6.00pm on 22 June 2021, was notified on the Community Update page on Council's website between 26 May and 16 June 2021. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Some 14 neighbouring properties notified during the exhibition period were also notified in writing of the Public Hearing. The Hearing was facilitated by Mr Ian Sinclair, an independent Planning Consultant, and held on-line and live streamed on YouTube.

There was one registration to address the Hearing on this matter and this occurred. It subsequently became apparent that a second speaker had wanted to address the Hearing. This was arranged for 3.00PM on Thursday 1 July 2021. The original speaker at the Hearing of 22 June was invited to listen to the second speaker and again the Hearing was

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live streamed on YouTube. The Facilitator's report forms ATTACHMENT 1 to this report and includes both speakers' comments.

It is therefore the recommendation of this report that the Planning Proposal now be completed under s.3.36 of the *Environmental Planning and Assessment Act 1929*. It is noted that the Gateway was conditioned for Council to be authorised as the local plan-making authority.

COMMUNICATION AND CONSULTATION

Community Engagement

Community Engagement was undertaken through public exhibition of the Planning Proposal and the holding of an independently facilitated Public Hearing in accordance with legislative requirements.

Internal Communication and Consultation

Communication occurred with Council's Property Branch and Assets Branch.

External Communication and Consultation

Agency consultation was undertaken as required under the Gateway Determination.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal and Public Hearing were undertaken in accordance with legislative requirements under the *Environmental Planning and Assessment Act 1979* and the *Local Government Act, 1993*.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

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RELATED COUNCIL POLICY

None have been identified.

CONCLUSION

Due to the current uses of the land and the current license agreements with those users, it is recommended that the Planning Proposal proceed to reclassify the subject land to 'Operational' to provide consistency with the classification of surrounding land.

ATTACHMENTS

1. Public Hearing Report



Ms Susan Stannard
Senior Strategic Land Use Planner
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577.

20 July 2021

Dear Ms Stannard,

Planning Proposal to amend Wingecarribee Local Environmental Plan 2010 to reclassify Lot 1 DP 1246504, 7-11 Burgess Street, Bundanoon, from Community to Operational.

I refer to the above Planning Proposal and to the Public Hearing held on 22 June, 2021, via Zoom Conference which was facilitated by me.

The meeting was attended by one resident who addressed the meeting opposing the reclassification of the land. I also note that due to a miscommunication, one other resident who is a user of the land was not informed about the public hearing. An additional time was given to that member of the community to make a comment and this occurred on 1 July, 2021. This resident supported the reclassification of the land.

Following is a summary of the issues raised:

- Concern about the access and egress for vehicular traffic in Burgess Street;
- Safety of people using Burgess Street, particularly children attending the Preschool;
- Questions the appropriateness of the site for community facilities noting that it is a short road of approximately 100m length with no turning circle, which makes it difficult to turn around;
- Notes the number of traffic generating developments being a Preschool, the Rural Fire Service, Men's Shed and the Bundanoon Community Association as well as two residences with front access and another two residences with rear access to the street;
- No off-street car parking for the community uses, which means that people park on the street and sometimes park across private driveways;
- The community land has been fenced off thereby denying access to the park at the rear of the land.
- Community group is supportive of the reclassification as it will allow for better use of the land.

I would like to thank you for using Edge Land Planning for this project and please don't hesitate to contact me if you have any questions.

ABN: 46 116 016 768

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Website: www.ruralplanning.com.au • Email: isinclair@ruralplanning.com.au

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Wingecarribee Shire Council

2

Yours Faithfully



Ian Sinclair
Principal Consultant

6.3 Planning Proposal to rezone land at 254 Centennial Road Bowral (Centennial Vineyards) from E3 Environmental Management to SP3 Tourist.

Report Author: Senior Strategic Land Use Planner
Authoriser: Manager Strategic Land Use Planning

PURPOSE

To finalise the Planning Proposal to amend Wingecarribee Local Environmental Plan (WLEP) 2010 to rezone land at 252-254 Centennial Road Bowral from E3 Environmental Management to SP3 Tourist.

Applicant / Proponent	Lee Environmental Planning
Owners	Windbelt Pty Ltd
Consultants	Lee Environmental Planning
Notification	26 May to 25 June 2021
Number Advised	52
Number of Submissions	1
Current Zoning / MLS	E3 Environmental Management, 40 hectares.
Proposed LEP Amendment/s	Rezone land at 252-254 Centennial Road Bowral (Centennial Vineyards), being Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part Lot 1 DP 16192, from E3 Environmental Management to SP3 Tourist.
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

RECOMMENDATION

1. **THAT** the Planning Proposal to rezone land at 254 Centennial Road Bowral (Centennial Vineyards), being Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part Lot 1 DP 16192 from E3 Environmental Management to SP3 Tourist be finalised under s 3.36 of the *Environmental Planning & Assessment Act 1979*, and
2. **THAT** any future Development Application over the SP3 Tourist zoned land provide a Concept Master Plan, as required under the Rural Tourism Policy, and demonstrate to Council's satisfaction that no clearing of native vegetation will be required.

BACKGROUND

The subject land is located at 254 Centennial Road Bowral, to the west of Bowral Township, as indicated in **Figure 1** below, and is known as Centennial Vineyards. The land comprises

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Lot 1 DP126196, Lot 1 DP435373, Lot 1 DP16192 and Lot 5A DP16192 and covers an area of almost 91 hectares. All lots front the northern side of Centennial Road as indicated in **Figure 2** below.



Figure 1 – Location of the Subject Land

The land is currently zoned E3 Environmental Management under Wingecarribee Local Environmental Plan 2010. It adjoins Crown land zoned E2 Environmental Conservation to the north and north east, with RU4 Primary Production Small Lots zoned land (minimum lot size 2 ha) to the east and south east, and R5 Large Lot Residential zoned land (minimum lot size 4,000m²) further to the east as shown in **Figure 2** below.

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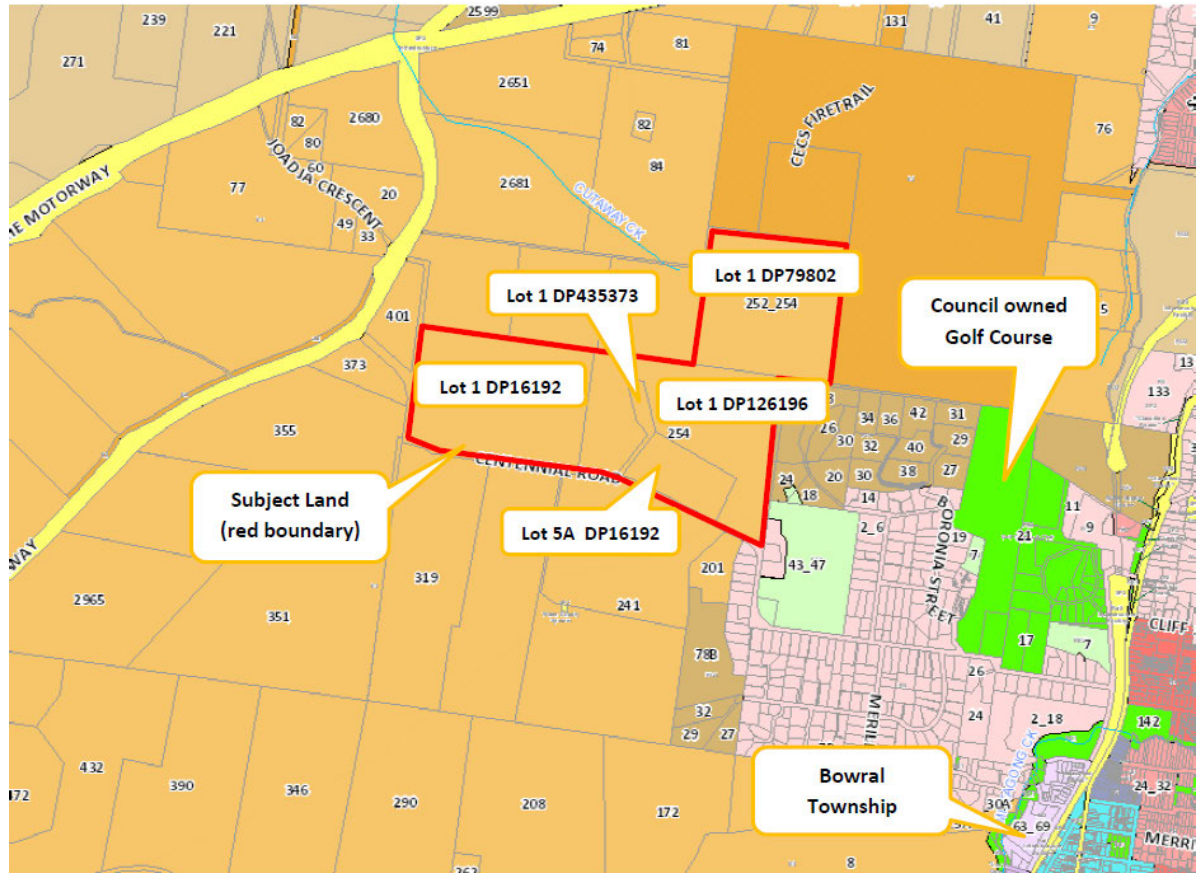


Figure 2 – Lot identification & Zoning

The initial Planning Proposal proposed to rezone all of the subject land as well as an adjoining lot to the north as indicated in **Figure 2** above. However, on the basis of mapped Threatened Ecological Community (TEC) (Southern Highlands Shale Woodland), shown in **Figure 3** below, Council resolved to exclude the most northern lot (Lot 1 DP79802) and those areas of most significant TEC, resulting in a proposed rezoning area as indicated in **Figure 4** below.

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Figure 3 – Extent of Mapped TEC



Figure 4 – Extent of Proposed Rezoning

The site has access to all utilities including gas, electricity, town water and sewer and supports a well-established vineyard covering some 30 hectares, a winery, cellar door and restaurant. The site has a long history of tourist related activity. Prior to the planting of the vineyard in 1998, the property was known as ‘Maple Downs’. It contained a trout ‘fish out’ dam and numerous other dams that were utilised for the propagation of trout. The site also contained a horse-riding school and horse-riding trails. The improvements upon the site are associated with the vineyards, winery, cellar door, restaurant, storage sheds and farm buildings and car park area. Current approved uses are indicated in **Figure 5** below.

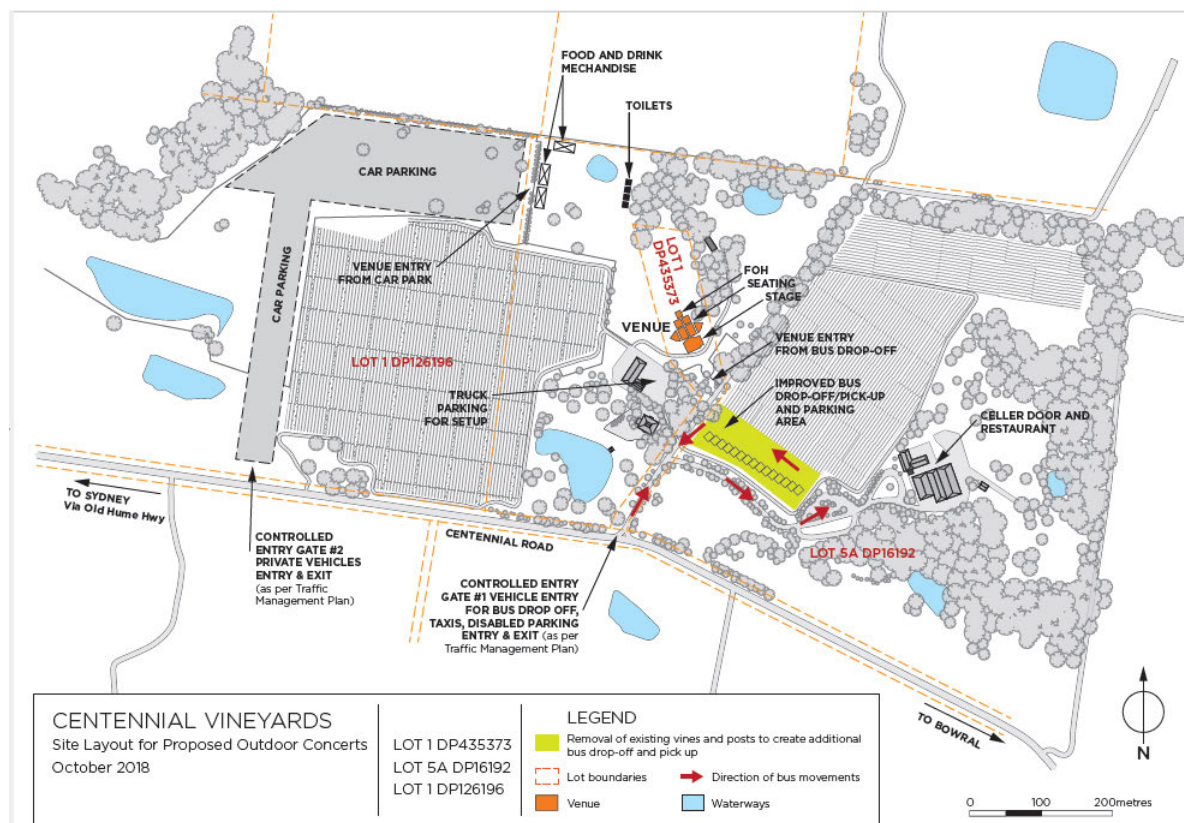


Figure 5: Current approved uses

The objectives intended outcomes of the Planning Proposal are:

- To rezone the identified portions of land from E3 Environmental Management to SP3 Tourist in order to better reflect its current usage as a long established and approved winery, cellar door and restaurant, while excluding those areas of high value environmental land which remain connected to more extensive vegetation corridors.
- To provide a zoning for the land that will enable Council to consider future applications for additional development permitted with consent in the SP3 Tourist zone. It is noted that Council’s resolution to support the Planning Proposal includes the requirement that a Concept Master Plan be prepared to support any future Development Application should the rezoning proceed.

The SP3 Tourist zone was introduced into the Shire with the making of WLEP 2010. This zone permits, with Council consent, a broad range of tourist related development. The objectives of the SP3 Tourist zone are:

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- to provide for a variety of tourist-oriented development and related uses, and
- to ensure that development is sympathetic with the rural setting and landscape features of the site and minimises impact on the scenic values of nearby development and land use activity.

In relation to the Minimum Lot Size Maps the current maps require a minimum 40 hectares to create any new allotment. It is not intended that the Lot Size map be amended. It is noted that pursuant to Clause 2.6 of the Wingecarribee Local Environmental Plan 2010, subdivision of land would be permissible within the SP3 Tourist zone and therefore maintenance of the larger lot size at this point in time is considered appropriate, without compromising the potential tourist related development options for the land.

The Wingecarribee Rural Tourism Policy was adopted by Council at its Ordinary Meeting of 13 November 2019. The objectives of the adopted Policy are:

- *to provide a direct 'line of sight' between the South East and Tablelands Regional Plan, the Destination Management Plan, the Community Strategic Plan and Council's planning framework as it relates to rural tourism development*
- *to outline a clear approval pathway for certain rural tourism related developments in the Wingecarribee Shire*
- *to provide greater certainty and consistency in the assessment of rural tourism related development proposals for both the industry and the broader community, and*
- *to set out criteria for determining when Council will consider a Planning Proposal to rezone land to SP3 Tourist.*

Council recognises that tourism is a key economic driver for the Shire. Tourism is a key employer for 'first job' and 'part time' job opportunities for the young, as well as full time jobs for across a broad age range and across a broad range of skill sets. It is also recognised that the Shire can provide opportunities for year-round tourism.

Council also recognises the economic challenges that traditionally face rural communities and that rural based tourism provides the potential for a broader economic base in such communities to add diversity to the economy.

The benefits of tourism are acknowledged in the Wingecarribee Shire Community Strategic Plan (CSP) (June 2017), however, the CSP also acknowledges that these goals and strategies need to be balanced against community and environmental impacts which are not always positive (Strategy 5.1.3 - *ensure tourism balances the economic benefits with impact on environment and community*).

The South East and Tablelands Regional Plan (page 66) also acknowledges this need for balance, identifying the highest priorities for the Shire as including:

- *Protect high environmental value lands including regionally significant biodiversity corridors*
- *Protect the Sydney Drinking Water Catchment*
- *Protect important agricultural lands as a resource for food security*
- *Protect the shire's valued heritage assets*

Therefore, the adopted Policy provides a framework for both Council and the tourism industry to consider large scale rural tourism proposals at a strategic level and to ensure that any negative impacts are identified, managed and mitigated appropriately.

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The Planning Proposal was initially considered and assessed within this context and subsequently reported to Council on 22 July 2020 at which time it was resolved as follows;

- 1. THAT the Planning Proposal to rezone land at 252-254 Centennial Road Bowral / (Centennial Vineyards) from E3 Environmental Management to SP3 Tourist BE SUPPORTED for progression to a Gateway Determination for the following lots: Lot 1 DP 126196, Lot 1 DP 435373, Lot 5A DP 16192 and part of Lot 1 DP 16192, and**
- 2. THAT any future Development Application for the rezoned portion of the subject land shall provide a Concept Master Plan, as required under the Rural Tourism Policy, and shall demonstrate to Council's satisfaction that no clearing of native vegetation will be required.**

REPORT

A Gateway Determination to proceed with the Planning Proposal was issued by the Department of Planning, Industry & Environment on 8 March 2021. The Gateway authorised Council to act as the local plan making authority for the Planning Proposal under s.3.36 of the *Environmental Planning & Assessment Act 1979*.

The Gateway required preparation of a Preliminary Site Investigation, to be approved by the Department prior to, and included in, the public exhibition. The Gateway also required referral to WaterNSW, NSW Rural Fire Service and DPIE-Environment, Energy and Science Division. These referrals were undertaken and there were no objections from these agencies.

The Planning Proposal and supporting documentation were placed on public exhibition on Council's 'Your Say Wingecarribee' website for a period of 30 days from Wednesday 26 May to Friday 25 June 2021. The Planning Proposal was notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients. Notification letters were also sent to the owners of 52 adjacent and surrounding properties.

One (1) submission was received in support of the Planning Proposal noting that such development "would bring tourists to the region and generate urgently needed jobs for the Highlands". No other submissions were received. A copy of the submission has been provided to the Panel members.

It is the recommendation of this report, therefore, that the Planning Proposal to rezone the subject land to the extent identified, be finalised and WLEP be amended accordingly.

COMMUNICATION AND CONSULTATION

Community Engagement

Community consultation was undertaken as described in the report.

Internal Communication and Consultation

Internal consultation with the Environment and Sustainability Branch was undertaken.

External Communication and Consultation

Agency referrals were undertaken in accordance with the Gateway Determination as described in the report.

SUSTAINABILITY ASSESSMENT

- **Environment**

Environmental concerns were considered and addressed as described in the report.

- **Social**

The report addresses potential community impacts of rural tourism.

- **Broader Economic Implications**

The report addresses the broader economic benefits of tourism.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Planning Proposal has been processed in accordance with the Gateway Determination and guidelines as provided by the Department of Planning, Industry and Environment.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications associated with this report.

RELATED COUNCIL POLICY

The report has been prepared with reference to the adopted Rural Tourism Policy.

CONCLUSION

The Planning Proposal to rezone the property known as Centennial Vineyards Bowral was assessed against the adopted Rural Tourism Policy. Assessment of the subject land indicated that certain areas of the site constitute High Value Environmental Land by virtue of containing the Southern Highlands Shale Woodland ecological community listed as threatened on both state and federal registers.

The Rural Tourism Policy provides that High Value Environmental Land can be considered for rezoning to SP3 Tourist provided the proponent can demonstrate that such land won't be included in the development or won't be impacted by the development. In the case of the subject land, which already contains tourist related development, the recommended approach is to exclude from rezoning the most vegetated areas of the site, but support rezoning of those areas of the site already developed for tourist related activity, or where impacts on TEC of future development can be minimised.

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It is also a requirement of the Rural Tourism Policy that the proponent provide a Concept Master Plan to accompany any future development application to enable Council to consider the cumulative impacts of development on the site and surrounding locality.

Progression of the Planning Proposal was supported by Council and, following community consultation it is now recommended that the Planning Proposal be finalised and WLEP 2010 be amended by rezoning the identified portion of the subject land to SP3 Tourist.

ATTACHMENTS

There are no attachments to this report.

6.4 Planning Proposal for Provisions Relating to Secondary Dwellings in Rural Zones

Report Author: Senior Strategic Land Use Planner
Authoriser: Manager Strategic Land Use Planning

PURPOSE

The purpose of this report is to seek to finalise the Planning Proposal to introduce a new control within the Wingecarribee Local Environmental Plan 2010 related to secondary dwellings within rural zones. This amendment was necessitated by a recent amendment to the Standard Instrument Local Environmental Plan which affects Wingecarribee Local Environmental Plan 2010.

Applicant / Proponent	Wingecarribee Shire Council
Owners	N/A
Consultants	N/A
Notification	9 June to 9 July 2021
Number Advised	Shire wide
Number of Submissions	One (1)
Current Zoning / MLS	N/A
Proposed LEP Amendment/s	Insert into WLEP 2010 optional clause 5.5 <i>Controls relating to secondary dwellings on land in a rural zone.</i>
Political Donations	N/A
Recommendation	Finalisation of the Planning Proposal BE SUPPORTED

RECOMMENDATION

THAT the Planning Proposal to insert the Standard Instrument optional clause 5.5 into the *Wingecarribee Local Environmental Plan 2010* to provide development standards for secondary dwellings in rural zones be finalised under s3.36 of the *Environmental Planning & Assessment Act 1979*.

BACKGROUND

On 18 December 2020, the *Standard Instrument (Local Environmental Plans) Amendment (Secondary Dwellings) Order 2020* was published. A copy of the Order is provided as **ATTACHMENT 1**.

This order amended the Standard Instrument Local Environmental Plan, on which Wingecarribee Local Environmental Plan (WLEP) 2010 is based and made a mandatory and automatic amendment to the controls for secondary dwellings contained in *subclause 9*

of clause 5.4 (Controls relating to miscellaneous permissible uses). These amendments came into force on 1 February 2021.

The amendment makes a change to the development standards in place for secondary dwellings to specifically exclude secondary dwellings in rural zones. Currently, secondary dwellings are permissible in the following rural zones: RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots.

The wording of the amended subclause is reproduced below with the changes indicated in red.

5.4 Controls relating to miscellaneous permissible uses

- (9) **Secondary dwellings on land other than land in a rural zone** *If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
- (a) 60 square metres,
 - (b) 33% of the total floor area of the principal dwelling.

It is important to note that this new clause—which is now in force—only excludes the rural zones (RU1, RU2 and RU4) and not any of the environmental protection zones, which make up the majority of the recognised rural and pastoral areas of the Shire.

Accompanying the mandatory change to clause 5.4(9) of the WLEP, the Order provides for a Standard Instrument (SI) optional clause which, if adopted, would be inserted as clause 5.5 of the WLEP 2010) as follows:

5.5 Controls relating to secondary dwellings on land in a rural zone [optional]

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) *the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
 - (i) *[insert number] square metres,*
 - (ii) *[insert number]% of the total floor area of the principal dwelling, and*
- (b) *the distance between the secondary dwelling and the principal dwelling must not exceed [insert number] metres.*

This SI amendment has created an anomaly under WLEP 2010 where there are no controls for the size of secondary dwellings in the rural zones. In order to rectify this situation, it is necessary to adopt the optional clause 5.5 and populate it with the provisions which applied prior to the SI amendment and which remain in WLEP 2010 for secondary dwellings in the environmental protection zones. To maintain this consistency the following numerical standards would apply:

- **60** square metres
- **33%** of the total floor area of the principal dwelling

It is noted that clause 5.5 also provides for a maximum distance between the principal and secondary dwelling, a control which is currently not included in the Standard Instrument clause 5.4(9). A nominated distance of 50 metres has been contained within the Rural Lands Development Control Plan (DCP) (applicable to RU1 and RU2 zones) and the Rural Living DCP (applicable to the RU4 zone) since they were adopted at the time of commencement of the WLEP in 2010.

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Therefore, in order to restore the development standards for secondary dwellings in the rural zones as they were prior to the SI amendment, and as they remain for the environmental protection zones, and to meet the new SI clause requirement for a nominated maximum distance between the principal and secondary dwelling, a draft clause 5.5 has been prepared as follows.

5.5 Controls relating to secondary dwellings on land in a rural zone [optional]

If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—

- (a) *the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
 - (i) **60 square metres,**
 - (ii) **33% of the total floor area of the principal dwelling, and**
- (b) *the distance between the secondary dwelling and the principal dwelling must not exceed 50 metres.*

Council considered this draft clause at its Ordinary Meeting of 10 March 2021 and resolved as follows:

1. ***THAT a Planning Proposal be prepared and submitted to the Department of Planning, Industry and Environment for a Gateway Determination under section 3.33 of the Environmental Planning and Assessment Act 1979, to insert a new clause 5.5 in the Wingecarribee Local Environmental Plan 2010 to provide development standards for secondary dwellings in rural zones in accordance with the Standard Instrument (Local Environmental Plans) Amendment (Secondary Dwellings) Order 2020 and consistent with Council's established standards for size and separation of secondary dwellings.***
2. ***THAT a Councillor Information Session be held following the exhibition period.***

The progression of that Resolution is now addressed.

REPORT

A Planning Proposal in accordance with the Resolution of 10 March 2021 was submitted to the Department of Planning, Industry and Environment and a Gateway Determination to proceed was issued on 22 April 2021.

The Gateway Determination required that the Planning Proposal be referred to WaterNSW and NSW Rural Fire Service. Agency referrals were completed with no objections received.

The Gateway Determination required that the Planning Proposal and supporting documentation be placed on public exhibition for a period of at least 28 days. This public exhibition occurred for a period of 30 days from Wednesday 9 June to Friday 9 July 2021 inclusive. The Planning Proposal and supporting documentation were included on Council's 'Your Say Wingecarribee' website and notified on Council's Community Update page on its website for each week of the exhibition period. The Community Update is also emailed weekly to over 3,500 recipients.

One (1) written submission was received. The submission does not support the Planning Proposal, principally on the basis of the 50 metre separation standard.

It is noted that the submission states the intent of the Planning Proposal is to "amend the provisions of Wingecarribee Local Environmental Plan 2010 as they relate to secondary

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dwellings, by including the 50 metre separation distance between a principal and secondary dwelling into clause 5.4(9), as a development standard.”

However, the actual intent of the Planning Proposal, as described in the background to this report, is to insert the optional SI clause 5.5 into WLEP 2010 as a result of the SI Amendment to clause 5.4(9) which removed the previous controls for secondary dwellings on rural zoned land.

The SI clause 5.5 includes the requirement to nominate a maximum distance between the principal and secondary dwelling. To maintain consistency with the current 50 metre standard which has applied under the Rural Lands and Rural Living DCPs since their adoption in 2010, a 50 metre separation was included in draft clause 5.5.

Nonetheless, it is understood that the submission does not support the 50 metre separation distance between a principal and secondary dwelling, regardless of the mechanism (LEP or DCP) through which it is applied and specific comments in this regard are addressed below. A copy of the submission has been provided to all members of the Panel.

Comments & Staff Responses	
1	<p>Comment – The 50 metre distance is completely arbitrary and has never been justified by the Council. Nothing in the Planning Proposal justifies the 50 metre standard.</p> <p>Response - <i>The Planning Proposal ‘justifies’ the 50 metre standard on the basis that it has been the adopted ‘secondary dwelling’ standard in all Rural Lands and Rural Living DCPs since their introduction with the making of Wingecarribee LEP in 2010. At that time the Council of the day wanted to ensure that the location of dwellings in the rural landscape achieved a cluster effect typical of traditional rural development within the Shire, thereby helping to limit the impacts of residential development within the rural areas.</i></p> <p><i>The Planning Proposal is primarily an administrative matter to ensure that the existing development standards for secondary dwellings are maintained.</i></p>
2	<p>Comment – Experience with the 50 metre distance separation standard over many years has led to a conclusion that it is a blunt instrument, as often irrelevant to a suitable outcome as it is useful. One size does not fit all.</p> <p>Response – <i>It is acknowledged that any nominated maximum distance will encounter criticism and opposition and there may well be situations when it genuinely does not provide the best development outcome. However, it is the SI clause which has created the requirement to include the 50 metre standard in the LEP, not Council, and the purpose of this Planning Proposal is to respond to the SI amendment and consequent need for a new clause.</i></p>
3	<p>Comment – The proper analysis of view impacts, bushfire protection, vehicle access, protection of native vegetation, avoidance of water courses are all far better measures of the reasonableness of a Development Application (DA) than the enforcement of an arbitrary 50 metres separation distance.</p> <p>Response – <i>The Planning Proposal was discussed with the Town Planning and Accredited Certifier staff. There is the view that the standard has served the rural</i></p>

	Comments & Staff Responses
	<p><i>environment of the Shire well over the years and its removal or dilution would not be supported. Council has generally sought to ensure that the standard has been consistently applied in interests of maintaining the relevance and legitimacy of the DCPs and their controls, both within the community and before the Court.</i></p> <p><i>The view has also been expressed that the standard can, in specific circumstances, not necessarily result in the best development outcome with regard to views and or environmental impacts, and that, on those occasions, a DCP variation may be warranted. It is noted that this option would be removed in the rural zones with the adoption of the draft clause, but the clause's requirement to nominate a maximum separation distance was not initiated by the Council and for consistency with the application of the secondary dwelling controls in the environmental protection zones, the 50 metre standard needs to be included.</i></p>
4	<p>Comment – The 50 metre distance ignores the reality of the needs and wants of the property owners who have a myriad of reasons why they seek approval for a secondary dwelling in the first instance, reflecting who in fact may end up residing in them.</p> <p>Response – <i>As stated above, it is acknowledged that there may be occasions when the rigid application of the standard would not achieve the best outcome with regard to views or environmental impacts. The opportunity to seek a variation in these circumstances is addressed at (5) below.</i></p>
5	<p>Comment – With regard to the role of the DCPs in assessing a DA, s4.15 (3A)(b) of the Environmental Planning & Assessment (EP&A) Act 1979 states that the consent authority “<i>is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards...</i>”.</p> <p>Council therefore is obliged to be flexible, in respect of the 50 metre separation distance (and) if there are no demonstrable or substantiated impacts, Council needs to be supportive of the development rather than object purely on the basis of a variance to an arbitrary numerical standard.</p> <p>If the control is transferred into WLEP, “Council will be inundated with clause 4.6 variation requests because the chosen development standard is not appropriate”.</p> <p>Response – <i>The objective of the 50 metre separation standard is to ensure that rural buildings are grouped and complementary in design and construction.</i></p> <p><i>As stated above, it is the general view of assessing staff that over the 11 years that the standard applied through the DCPs has served the Shire well in achieving its objective. It is also recognised by staff that where a genuine adverse environmental outcome can be demonstrated, a variation can, and has been, considered.</i></p> <p><i>As stated in the submission, a clause 4.6 variation could be considered. Although clause 4.6 does not permit variations to clause 5.4, it would allow a request to vary the standards under the new Clause 5.5. Therefore, the opportunity would remain for Council to consider any request under clause 4.6 if the proponent could demonstrate that its application would genuinely result in a poor development outcome.</i></p> <p><i>In its assessment, Council would be guided by the proposed Departmental amendments to the provisions of clause 4.6 which would limit its application to situations where “the</i></p>

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	<p><i>consent authority must be directly satisfied that the applicant's written request demonstrates the following essential criteria in order to vary a development standard:</i></p> <ul style="list-style-type: none"><i>• the proposed development is consistent with the objectives of the relevant development standard and land use zone; and</i><i>• the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened. In deciding whether a contravention of a development standard will result in an improved planning outcome, the consent authority is to consider the public interest, environmental outcomes, social outcomes and economic outcomes".</i>
6	<p>Comment – The submission concludes by stating that, if the Planning Proposal is to proceed, a 'more realistic' separation distance of 100 metres is recommended.</p> <p>Response - This comment is noted.</p>

The need to amend WLEP 2010 arose with an unexpected amendment to the Standard Instrument introduced without consultation and at short notice. It leaves WLEP 2010 without any development standard at all, including size, for secondary dwellings in the rural zones. Council has had to act quickly to reinstate the same provisions as applied under clause 5.4(9) before the amendment was made, and which still apply for secondary dwellings in the environmental protection zones.

Council recognises the anomaly of including the 50 metre maximum distance separation standard within the LEP for secondary dwelling development on rural zoned land while it remains a DCP for such development in environmental protection zones. However, the format of the SI clause gives Council no alternative but to do so.

No other separation distance can be considered at this time without also amending the relevant DCPs because there can be no inconsistency between the LEP and the DCP standards. A more appropriate time to consider further any variation to the current maximum distance separation standard would be when the Development Control Plans themselves are reviewed.

It is therefore the recommendation of this report that the Planning Proposal as exhibited be finalised.

It is noted that the Resolution of 10 March 2021 also included that the matter be brought back to a Councillor Information Session. In lieu of this, the report was discussed with the Independent Planning Advisory Panel in a briefing session prior to the report being formally considered by the Panel.

COMMUNICATION AND CONSULTATION

Community Engagement

Community Engagement was undertaken in accordance with the Gateway Determination as described in this report.

Internal Communication and Consultation

Internal consultation was undertaken with Town Planning and accredited Certifier staff.

External Communication and Consultation

External consultation was undertaken in accordance with the Gateway Determination as described in this report.

SUSTAINABILITY ASSESSMENT

- **Environment**

The proposed amendment to the WLEP 2010 will ensure that consistent development controls are applied to secondary dwelling applications.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

There are no budget implications in relation to this report. The preparation of the Planning Proposal will be undertaken with existing staff resources.

RELATED COUNCIL POLICY

There are no related Council policies.

CONCLUSION

While the majority of our recognised rural areas are not actually within a rural zone, it is important that there are consistent standards in place for secondary dwellings within the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones.

The amendment to clause 5.4 and the creation of a new clause 5.5 in a specific format require Council to also include the current 50 metres distance separation as an LEP standard for rural zoned land. Council acknowledges the anomaly between the application of controls for rural zoned land and environmental protection zones, but considers the adoption of the draft clause into WLEP 2010 as the most expedient means of addressing the SI amendment.

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This report recommends therefore that Council proceed to finalise a Planning Proposal to adopt the optional clause for secondary dwellings in rural zones with appropriate numerical standards consistent with those consistently applied by Council since 2010.

ATTACHMENTS

There are no attachments to this report.

Marissa Racomelara
Interim Deputy General Manager

Wednesday 28 July 2021